IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS FROM SETTLEMENTS WITH AME DEFENDANTS AND DEFENDANT NEWPORT GROUP, INC.

Plaintiffs Reverend Pearce Ewing, Reverend Charles R. Jackson, Reverend Cedric V. Alexander, Reverend Derrell Wade, Reverend Reuben J. Boyd, Presiding Elder Phillip Russ, IV, Lynette Glenn, Guardian of Reverend Marcius King, Reverend Matthew Ewing, Candace L. Carmichael, as Administrator of the Estate of Reverend A. Offord Carmichael, Deceased, and Reverend Diane Conley, on behalf of themselves and all others similarly situated, (collectively, "Plaintiffs") respectfully move, pursuant to Rules 23(h) and 54(d) of the Federal Rules of Civil Procedure, as well as the relevant settlement agreements in this matter, for an order awarding the undersigned Plaintiffs' Counsel: (1) attorneys' fees in the amount of one-third of the Settlement Amounts (including the interest accruing on the Settlement Amounts prior to distribution); (2) their out-of-pocket expenses incurred from the inception of the case to March 31, 2025 totaling $1,326,003.68; and (3) service awards of $20,000 for each of the ten named Plaintiffs. The legal and factual basis supporting this Motion are fully set forth in the attached Memorandum and supporting declarations and other exhibits accompanying the Memorandum.

Wherefore, Plaintiffs respectfully request that the Court grant this Motion.

Respectfully submitted, this the 7th day of May 2025.

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CERTIFICATE OF SERVICE

This is to certify that on May 7, 2025, the foregoing motion was served via the Court's CM/ECF system on all counsel of record.

/s/ *Matthew E. Lee*
Matthew E. Lee

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS FROM SETTLEMENTS WITH AME DEFENDANTS AND DEFENDANT NEWPORT GROUP, INC.

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INTRODUCTION

Though Plaintiffs are still actively litigating this matter, Plaintiffs have obtained substantial monetary relief in the form of roughly $61,000,000 from the AME and Newport Settlements for the Class as well as changes to the governance and oversight of the AME Church Retirement Plan. Because the settlements create a common fund, the percentage-of-fund method of fee awards is appropriate in evaluating Plaintiffs' requested fee award. Specifically, Plaintiffs ask the Court to award one-third of the AME and Newport Settlement Amounts (including the interest earned on the Settlement Amounts prior to distribution) in attorneys' fees and $1,326,003.68 for reimbursement of out-of-pocket expenses. Additionally, Plaintiffs request service awards for the named Plaintiffs in the amount of $20,000 each. The named Plaintiffs have devoted considerable time to this case and took significant risks by exposing themselves and their families to scrutiny in their church community for the benefit of their fellow AME pastors. The amount requested is a modest fraction of the total relief that they have obtained for the Class so far.

BACKGROUND

Plaintiffs assume the Court's familiarity with this case and the two Settlement Agreements. However, Plaintiffs will briefly discuss the relevant procedural history and terms of the Settlement Agreements as they relate to this petition for fees and costs.

I. Procedural History

Plaintiffs, who are pastors and personnel of the AME Church, brought this case following their discovery in the fall of 2021 that the value of the AMEC Ministerial Retirement Annuity Plan was $88,489,163 less than had been represented to them just weeks prior. In the spring of 2022, six different lawsuits were filed around the country against a number of defendants, including the AME Defendants and Newport. *See* **Exhibit 1** (Declaration of Matthew E. Lee in Support of

Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards for Settlements with AME Defendants and Defendant Newport Group, Inc. ("Lee Decl.")) at ¶ 6. On June 2, 2022, the Judicial Panel on Multidistrict Litigation consolidated those actions into a single MDL proceeding under the caption *In re AME Church Employee Retirement Fund Litigation*, No. 1:22- md-03035-STA-jay. Lee Decl. ¶ 7.

Consolidated Amended Complaint. Plaintiffs thereafter filed a Consolidated Amended Complaint against the AME Defendants, Newport, and most of the Non-Settling Defendants on August 19, 2022. Lee Decl. ¶ 12. The AME Defendants moved to partially dismiss Plaintiffs' claims (ECF No. 99), Newport moved to dismiss Plaintiffs' claims against it (ECF No. 100), and Defendant Symetra Life Insurance Company moved to dismiss Plaintiffs' claims against it (ECF No. 111). Plaintiffs opposed all three motions to dismiss. (ECF Nos. 115, 132, 141.) Defendant Dr. Jerome V. Harris answered (ECF No. 120) as did Defendants Robert Eaton and Financial Freedom Group, Inc. (ECF No. 129) and Defendant Jarrod Erwin (ECF No 189) after Plaintiffs opposed a motion for a protective order on behalf of Jarrod Erwin (ECF No 187).

Motion to Dismiss Opinion. On March 17, 2023, the Court granted the AME Defendants' partial motion to dismiss, leaving Plaintiffs with only breach of fiduciary duty and negligence claims against the AME Defendants. Lee Decl. ¶ 13. The Court partially denied Newport's motion to dismiss Plaintiffs' complaint, allowing their claims breach of fiduciary duty and negligence to proceed. *Id*.

Plaintiffs' Second Consolidated Amended Complaint. On August 29, 2024, Plaintiffs filed a Second Consolidated Amended Complaint against Newport, the AME Defendants, and the Non-Settling Defendants. Lee Decl. ¶ 24. Plaintiffs asserted the following claims against Newport, derivatively on behalf of the Plan and on behalf of a putative class: (1) violation of Tennessee's

Uniform Trust Code, (2) fraudulent concealment, (3) fraudulent misrepresentation, (4) negligence; (5) civil conspiracy, (6) aiding and abetting in a breach of fiduciary duty, and (7) professional negligence. (ECF No. 493.) Newport partially moved to dismiss Plaintiffs' claims. (ECF No. 521.) Because Plaintiffs and the AME Defendants had not yet finalized their settlement, Plaintiffs asserted four claims against the AME Defendants: (1) breach of fiduciary duty; (2) negligence; (3) fraudulent concealment; and (4) breach of contract. (ECF No. 493.)

II. Discovery Efforts

All parties in the case engaged in substantial fact discovery from September 2022 to the beginning of 2025. Lee Decl. ¶¶ 14-23. In total, more than 53,000 documents and approximately 1.5 million pages have been produced in written discovery. *Id*. ¶ 18. Obtaining these documents has required extensive party discovery, numerous third-party subpoenas, and months of litigation in bankruptcy proceedings in the Southern District of Texas. *Id*. ¶¶ 15-17.

Between January and May 2024, Plaintiffs took nine depositions of AME witnesses, including a Rule 30(b)(6) deposition related to ESI and document retention. *Id*. ¶ 19.

Between April and July 2024, Plaintiffs took ten depositions of former and current Newport and Symetra employees, the deposition of Defendant Robert Eaton, and a Rule 30(b)(6) deposition of Defendant Financial Freedom Group. *Id*. ¶ 20.

Between August of 2024 and February of 2025, Plaintiffs took an additional twelve depositions. These included: 1) a 30(b)(6) deposition of Symetra; 2) three depositions of witnesses related to Defendants Robert Eaton and Day and Night Solar; 3) the continued deposition the outside auditor of the AME Department of Retirement Services; 4) a 30(b)(6) deposition of Defendant Day and Night Solar, LLC; 5) the depositions of four additional Symetra witnesses (including Symetra CEO Margaret Meister); and 6) the re-opened depositions of several Newport

and Symetra witnesses. *Id*. ¶ 21. In total, 49 unique witnesses or parties (including nine named plaintiffs) have been deposed. *Id*. ¶ 22.

Plaintiffs have served initial disclosures for three expert witnesses: (1) Harris Devor, a Certified Public Accountant engaged by Plaintiffs' Counsel in part to estimate the losses suffered by Plan participants under a hypothetical investment scenario; (2) Martin Dirks, a financial investment professional engaged by Plaintiffs' Counsel in part to provide opinions on the relevant considerations for investing a retirement plan, whether the Plan's assets were appropriately invested, and historic damages to Plan participants; and (3) Eric Dyson, a retirement plan industry professional engaged by Plaintiffs' Counsel in part to provide opinions on whether defendants met their applicable standards of care. *Id*. ¶ 30. The Settlement Agreements and continued litigation efforts have been informed by Plaintiffs' consultations with these experts.

III. Mediation Efforts and Settlement Negotiations

Initial Mediations. On February 6, 2023, Plaintiffs and the AME Defendants, along with Defendants Newport, Symetra, Dr. Harris, Robert Eaton, and Financial Freedom Group, mediated for the first time with the Honorable Janice M. Holder (Ret.), a former Chief Justice of the Tennessee Supreme Court. Lee Decl. ¶ 25. That mediation was unsuccessful. Following the Court's March 2023 rulings on the various motions to dismiss the Consolidated Amended Complaint, Plaintiffs and the AME Defendants mediated again with Justice Holder on May 4, 2023. *Id*. Negotiations between Plaintiffs and the AME Defendants reached an impasse following this second mediation session.

The AME Settlement. On July 30, 2024, Plaintiffs and the AME Defendants mediated for a third time with Justice Holder. *Id*. After the third mediation did not result in an agreement, Plaintiffs and the AME Defendants continued to negotiate at arm's length with the assistance of

Justice Holder before finally reaching an agreement on the material terms of the AME Settlement and entering into a Memorandum of Understanding on August 24, 2024. *Id*. On November 27, 2024, the AME Agreement was executed, and on December 13, 2024, Plaintiffs initially moved for preliminary approval of the AME Settlement. (ECF No. 627.)

The Newport Settlement. While Newport's motions to dismiss the Second Consolidated Amended Complaint and the AME Defendants' Second Amended Cross-Complaint were pending, Newport resumed settlement discussions with Plaintiffs and the AME Defendants for the first time since the initial February 2023 mediation. Lee Decl. ¶¶ 28-29. Following two mediation sessions led by experienced mediator A. Lee Parks and extensive discussions between Mr. Parks, counsel for Plaintiffs, the AME Defendants, and Newport, the parties reached an agreement in principle on February 3, 2025, and signed a term sheet on the morning of February 4. *Id.* ¶ 29.

IV. Terms of the Settlement Agreements

The AME Agreement and the Newport Agreement each provide relief to a Class composed of "all persons [except for Defendants] who were participants, or were those participants' respective beneficiaries entitled to benefits, in the African Methodist Episcopal Church Ministerial Retirement Plan on June 30, 2021." (ECF No. 750-2, AME Settlement Agreement ¶ 2.6; ECF No. 750-3, Newport Settlement Agreement ¶ 2.7.)

The Newport Agreement provides that Newport will pay $40 million in cash into the Qualified Settlement Fund. Newport Agmt. ¶ 3.4. This payment will comprehensively resolve all of Plaintiffs' claims against Newport, all of the AME Defendants' cross-claims against Newport, and Newport's cross-claim against the AME Defendants. None of the money paid out as part of the Newport Agreement will go to the AME Defendants.

The AME Agreement provides that the AME Defendants will pay $20 million in cash

(adjusted to the present value as of August 2, 2024) into a Qualified Settlement Fund held in trust for the sole benefit of the Class Members. AME Agmt. ¶¶ 2.29, 2.23. The AME Settlement Amount will not be funded in any way through assessments and/or budget raises to any local churches, annual conferences, or district conferences. AME Agmt. ¶ 3.3.1(b). These payments will comprehensively resolve all of Plaintiffs' claims asserted against the AME Defendants.

The AME Settlement Amount and the Newport Settlement Amount will be allocated in the same manner. Namely, they will be allocated *pro rata* to Settlement Class Members based on the ratio of the Settlement Class Member's account balance as of June 30, 2021, to the total value of all Settlement Class Member's account balances as of June 30, 2021, accounting for any distributions taken by participants between June 30, 2021, and the date that those balances were retroactively calculated. AME Agmt. ¶ 4.1; Newport Agmt. ¶ 4.1.1. Should any individuals opt out of either or both Settlements, the proportional share of the Settlement Amount(s) that individual otherwise would have received would then be distributed pro-rata amongst the remaining Settlement Class Members. Settlement Class Members are not required to submit a claim to receive an allocation of their pro rata share of the Settlement Amounts, and there are no provisions for any part of the Settlement Amounts to revert back to the Settling Defendants.

The AME Agreement also binds the AME Defendants to several business practice changes regarding the oversight and operation of the Plan. The AME Defendants have agreed to formally wind down and close the AMEC Department of Retirement Services and to transfer the Plan funds currently held at Symetra (to the extent permitted by federal tax law) to the Qualified Trust. AME Agmt. ¶¶ 3.4, 3.4.1(a)-(b), 3.4.2(a)-(b). The AME Defendants have agreed that no person or governing body of the AME Church will assess or accept any type of administrative, service, operational, management, or other such fee related to the Plan. The AME Defendants have also

agreed that the Plan will be governed by the principles set forth in ERISA. *Id.* ¶¶ 3.4.2(c), (e). They implemented these changes as of August 24, 2024. *Id.* ¶¶ 3.4.3, 3.4.4. The AME Defendants also agreed to ensure the process by which contributions for the new retirement plan are received from the local churches and deposited is as quick, efficient, and direct as possible. *Id.* ¶ 3.4.5.

V. Preliminary Approval

Plaintiffs initially filed for preliminary approval of the AME Agreement on December 13, 2024. (ECF No. 627.) On February 4, 2025, Plaintiffs asked that the Court defer the preliminary approval hearing on the AME Agreement until it could be heard in tandem with the Newport Agreement. (*See* ECF No. 774 at 4-5.) In advance of the hearing, Plaintiffs provided the Court with additional information about the Settlement Agreements and the benefits to Class Members. (ECF No. 726.) Plaintiffs' consolidated motion for preliminary approval was filed on March 4, 2025. (ECF No. 750.)

On March 24, 2025, The Court granted preliminary approval of both the AME Agreement and the Newport Agreement. (ECF No. 774.) The Court found that both Settlement Agreements were the product of arm's length negotiations that were well-informed by extensive fact discovery. (*Id.* at 9–10.) The amount of monetary recovery provided by the Settlement Agreements was reasonable regardless of whether that recovery was measured against the assets that went missing or the total amount of damages. (*Id.* at 11.) The Court further noted that the AME Agreement provided "significant" equitable relief through "a number of fundamental reforms to the plan, including complete structural and administrative changes to safeguard plan assets moving forward." (*Id.* at 13.)

The Court found that due to the advanced age of many class members, the time saved by a settlement "is a critical factor in achieving relief and recovering lost retirements funds for the

members of the settlement class." (*Id*. at 12.) "Even assuming the class could prevail at trials and on appeal, the members of the class might not be in a position to enforce a final judgment until 2028 (most likely at the very earliest)." (*Id*.) The Court also found that the automatic distribution of settlement proceeds on a pro rata basis without the need for a claims process "will be fair, equitable, and very effective in delivering relief to the class." (*Id*. at 13.) The Court has set a final Fairness Hearing on the Settlement Agreements for June 26, 2025. (ECF No. 775 ¶ 17.)

VI. Notice Process

As part of the Court's preliminary approval of the Settlement Agreement, the Court approved a "Notice of Proposed Settlement of Class Action" sent to class members, which explained that Plaintiffs' Counsel would pursue the relief they seek in this motion. The Court also appointed Verita, a highly experienced, well-regarded, third-party administrator to provide notice to the Settlement Class via first class mail and email. (*See* ECF No. 774 at 22.) The AME Defendants provided Verita with access to records and reasonably available contact information for each Person believed to be a potential Class Member, including name, email address, last known mailing address, and participant account history and activity for the Plan. AME Agmt. ¶ 7.2; Newport Agmt. ¶ 7.2.

The costs of settlement administration and notice shall be initially covered by the interest earned by the Qualified Settlement Fund. (ECF No. 750-3 at 18.) In the event that the costs of administration or notice exceed the amount of that earned interest, the AMEC Defendants will be responsible for those additional costs. (*Id*.).

The Settlement Agreements provide for Plaintiffs to apply to the Court for an award of Attorneys' Fees and Expenses. AME Agmt. ¶ 5.1; Newport Agmt. ¶ 5.1. The deadline for this motion is 30 days before the objection deadline of June 7, 2025. Under the Settlement Agreements

and Federal Rule of Civil Procedure 23(h) and 54(d)(2), Plaintiffs now move the Court for an award of one-third of the AME and Newport Settlement Amounts (including interest earned prior to distribution) in attorneys' fees and $1,326,003.68 in reimbursement for out-of-pocket expenses incurred by Counsel to date. In addition, Plaintiffs seek an appropriate service award of $20,000 for each of the ten named Plaintiffs.

LEGAL STANDARD

The Supreme Court "has recognized consistently that a litigant or lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984). This doctrine, often referred to the as "common fund doctrine," "rests on the on the perception that persons who obtain the benefit of a lawsuit without contributing to its cost are unjustly enriched at the successful litigant's expense." *Boeing*, 444 U.S. at 478.

Reasonableness is the ultimate standard for setting fees in a common fund case. "In this Circuit, we require only that awards of attorney's fees by federal courts in common fund cases be reasonable under the circumstances." *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 516 (6th Cir. 1993); *accord Moulton v. U.S. Steel Corp.*, 581 F.3d 344, 352 (6th Cir. 2009). When awarding fees, a court must make sure that counsel is fairly compensated for the amount of work done as well as for the results achieved. *Rawlings*, 9 F.3d at 516. Several factors may affect the reasonableness of an award: (1) the value of the benefit rendered to the plaintiff class; (2) the value of the services on an hourly basis; (3) whether the services were undertaken on a contingent fee basis; (4) society's stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (5) the complexity of the litigation; and (6) the professional skill and standing

of counsel involved on both sides. *Moulton*, 581 F.3d at 352 (citing *Bowling v. Pfizer, Inc.*, 102 F.3d 777, 780 (6th Cir. 1996)); *accord Ramey v. Cincinnati Enquirer*, *Inc.*, 508 F.2d 1188, 1196 (6th Cir. 1974).

ARGUMENT

Federal Rule of Civil Procedure 23(h) and the Settlement Agreements entitle Plaintiffs to attorneys' fees. Because this is a common benefit fund case, the Court should apply the percentage-of-the-fund method to determine reasonable fees. Under that method, Plaintiffs' request for an award of one-third of the common fund is reasonable given the value of the Settlements, the benefits to the Class, the risks involved in pursuing the litigation, and the complexity of the litigation thus far. In addition, Plaintiffs seek $1,326,003.86 in reasonable expenses incurred by Plaintiffs' Counsel to pursue this litigation thus far.[1] Finally, given their laudable efforts in pursuing this litigation, Plaintiffs seek service awards for each of the named Plaintiffs.

I. The Percentage of the Fund Method of Assessing the Reasonableness of Plaintiffs' Fee Request is Appropriate in this Case.

Plaintiffs' Counsel request for their fee to be set as a percentage of the Settlement Amounts and interest earned is appropriate. Under Federal Rule of Civil Procedure 23(h), "[i]n a certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." As the Supreme Court recognized, "[A] lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). When awarding attorneys' fees in a class action, "a court must make sure that counsel is fairly compensated for the amount of work done as well as for the results achieved." *Gascho v.*

[1] Plaintiffs are still incurring expenses as the litigation continues against the Non-Settling Defendants.

Glob. Fitness Holdings, LLC, 822 F.3d 269, 298 (6th Cir. 2016) (internal quotation marks and citation omitted).

Trial courts have discretion to award fees based on either (1) a percentage-of-the-fund calculation, or (2) a lodestar/multiplier approach. Under the "percentage-of-fund" method, the court determines a percentage of the settlement to award class counsel. *See In re Telectronics Pacing Sys. Inc*., 137 F. Supp. 2d 1029, 1041 (S.D. Ohio 2001). In the "lodestar/multiplier approach," "the court calculate[s] the reasonable number of hours submitted multiplied by the attorneys' reasonable hourly rates," which the Court then increases using a "multiplier" to account for, *inter alia*, the costs and risks involved in the litigation. *Id.* (citing *Newberg*, § 12.55 (3d ed. 1992)).

The percentage-of-the fund method is the preferred method in common fund cases within the Sixth Circuit. *In Re Se. Milk Antitrust Litig.*, Master File No. 2:08-MD-1000, 2013 WL 2155387, at *2 (E.D. Tenn. May 17, 2013) ("[T]he trend in the Sixth Circuit is towards adoption of a percentage of the fund method in common fund cases") (internal quotation omitted). See also *In re Skelaxin (Metaxalone) Antitrust Litig.,* No. 2:12-cv-83, 2014 WL 2946459, at *1 (E.D. Tenn. June 30, 2014) (observing trend and adopting percentage of the fund approach); *Manners v. Am. Gen. Life Ins. Co.*, No. Civ. A 3-98-0266, 1999 WL 33581944, at *29 (M.D. Tenn. Aug. 10, 1999) ("The preferred approach to calculating attorney's fees to be awarded in a common benefit case is as a percentage of the class benefit").

The advantages of the percentage-of-the-fund method are that it "more accurately reflects the results achieved" and that "it is easy to calculate; it establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation." *Gascho*, 822 F.3d at 279 (internal quotation marks and citation

omitted). This method directly "aligns the interests of the class and its counsel and provides a powerful incentive" to maximize recovery as efficiently as possible. *In re Se. Milk*, 2013 WL 2155387, at *2 (internal quotation marks and citation omitted). By contrast, "the lodestar method is difficult to apply, time-consuming to administer, inconsistent in result, and capable of manipulation" and "creates inherent incentive to prolong the litigation." *Id.* (quoting Manual for Complex Litigation Fourth §14.121).

As the Sixth Circuit has explained, this method "more accurately reflects the results achieved," and "has a number of advantages: it is easy to calculate, it establishes more reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation." *Rawlings*, 9 F.3d at 516; *see also In re Broadwing, Inc. ERISA Litig.*, 252 F.R.D. 369, 381 (S.D. Ohio 2006) ("The percentage of the fund . . . method . . . most closely approximates how lawyers are paid in the private market and incentivizes lawyers to maximize the Class recovery, but in an efficient manner.").

II. The Requested Fee Falls Within the Range Considered Reasonable and Fair by Courts in the Sixth Circuit.

The Settling Defendants are contributing $60,000,000 to a common fund and interest is accruing on that money already. Therefore, the total monetary value of the Settlements will likely be greater than $61,000,000 at the time of distribution. (ECF 750-4 ¶ 39.) Plaintiffs are requesting a fee award of one-third of the AME and Newport Settlement Amounts and one-third of the interest earned on the Settlement Amounts prior to distribution.

A request for one-third of a common fund "is certainly within the range of fees often awarded in common fund cases, both nationwide and in the Sixth Circuit." *In re Se. Milk*, 2013 WL 2155387, at *3 (awarding one-third of common fund). *See also Stewart v. Baptist Memorial Health Care Corp.*, 2024 WL 4360602, at *8 (W.D. Tenn. Sept. 30, 2024) (approving attorneys'

fees equal to one-third of the common fund); *Zaller v. Fred's Inc., et al,* No. 2:19-cv-02415 (W.D. Tenn. July 6, 2022) (ECF No. 105) (Lipman, J.) (awarding one-third of the common fund); *Fitzgerald v. P.L. Mktg., Inc.*, 2020 WL 3621250, at *10 (W.D. Tenn. July 2, 2020) (awarding one-third of the gross amount of the settlement fund as attorneys' fees and finding that it "accords with general practice in common fund class action settlements"); *In re Sonic Corp. Customer Data Sec. Breach Litig.*, 2019 WL 3773737, at *11 (N.D. Ohio Aug. 12, 2019) (finding attorneys' fees of one-third of aggregate settlement amount was reasonable and "typical" in class actions in the Sixth Circuit); *Daoust v. Maru Restaurant, LLC*, 2019 WL 2866490, at *5 (E.D. Mich. July 3, 2019) (citation omitted) (finding class counsels' request for attorneys' fees of one-third of settlement fund was "fair and reasonable using the 'percentage-of-recovery' method, [and] consistent with the 'trend in this Circuit'"); *Gokare, P.C. v. Fed. Express Corp.*, 2013 WL 12094887, at *4 (W.D. Tenn. Nov. 22, 2013) (collecting cases in which courts in this Circuit have approved attorneys' fee awards in common fund cases ranging from 30% to 33% of the total fund).

Furthermore, even in cases involving circumstances less compelling than those presented here, courts in class action litigation have consistently awarded fees consisting of one-third or more of the settlement. *Bridgeview Health Care Ctr., Ltd. v. Clark*, 2015 WL 4498741 (N.D. Ill. July 23, 2015) (approving award of one-third of the common fund because "the one-third contingency fee is well within the normal range in common fund cases" even though the Court noted that "Class Counsel hardly went out on a limb by taking this case…"); *Spine & Sports Chiropractic, Inc. v. ZirMed, Inc.*, No. 3:13-CV-00489, 2015 WL 9413143 (W.D. Ky. Dec. 22, 2015) (approving one-third contingency fee on class award containing reversionary clause that allowed almost 16% of settlement fund to revert back to defendant).

The one-third fee requested here is therefore precisely within the range of fees considered reasonable in a common fund case.

III. Application of Relevant Sixth Circuit Factors Confirmed That the Requested Fee is Reasonable.

A. The Benefits Conferred on the Class are Excellent.

The primary factor in determining a reasonable fee is the result achieved on behalf of the class. *In re Delphi Corp. Sec. Derivative & ERISA Litigation*, 248 F.R.D. 483, 503 (E.D. Mich. 2008); *see also Rawlings*, 9 F.3d at 517 ("[O]ne of the primary determinants of the quality of work performed in the result of obtained."); *Hensley v. Eckerhart*, 461 U.S. 424, 434–36 (1983) (noting that the most critical factor in awarding fees is the result achieved by counsel).

Here, the AME and Newport Settlement Amounts collectively total $60,000,000, an estimated approximately 68% of the difference between the true and claimed value of the Plan in June 2021 and approximately 27% of the maximum amount of compensatory damages Plaintiffs have indicated they may pursue at trial. (*See* ECF No. 667.) As noted above, because the common fund is already earning interest, the total monetary value of the Settlements is greater than $61,000,000. (ECF 750-4 ¶ 39.) Such a recovery is fair and reasonable. (*See id.* (citing *Kohari v. MetLife Grp, Inc.*, No.21-6146, 2025 WL 100898, at *10 (S.D.N.Y. Jan. 15, 2025)).

Plaintiffs' Counsel faced other substantial obstacles to achieving a recovery against the AME Defendants and Newport if the litigation against them went forward. As with any litigation, "[t]he prospect of a trial necessarily involves the risk that Plaintiffs would obtain little or no recovery . . . no matter how confident trial counsel may be, they cannot predict with 100% accuracy a jury's favorable verdict." *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 523 (E.D. Mich. 2003) (quoted by ECF No. 774). The value of the Settlement Agreements is well within the range

of reasonableness given the uncertainty of establishing and collecting a judgment against the AME Defendants and Newport if this litigation continued against them.

B. A Lodestar Crosscheck Confirms the Reasonableness of the Requested Fee.

"Courts often supplement their analysis of the percentage of the fund method with the lodestar cross-check." *Jones v. Varsity Brands, LLC*, No. 2:20-cv-02892-SHL-tmp, 2024 WL 5010412, at *9 (W.D. Tenn. Dec. 6, 2024). Since March 2022, Plaintiffs' Counsel have worked more than 19,494.3 hours on this matter, which at current billing rates for each firm is collectively worth over $16,467,751. Lee Decl. ¶¶ 44-47. Plaintiffs' requested fee award would equate to a "multiplier" of approximately 1.21. *Id.* ¶ 50. An examination of recently approved multipliers in other class actions reveals that the multiplier requested here is commensurate with, and in fact lower than, fees previously awarded. "Typically, courts award multipliers on lodestars in contingent fee cases ranging from 1.3 to 4.0." *Jones*, 2024 WL 5010412, at *9. Especially when considering the size of recovery achieved here by Plaintiffs' Counsel, the requested multiplier is far better than normal. *See* **Exhibit 9** (Declaration of Brian T. Fitpatrick) at ¶ 26.

C. Plaintiffs' Counsel Undertook this Case on a Contingency Fee Basis.

Courts have consistently recognized that the risk of receiving little or no recovery is a major factor in considering an award of attorney's fees. When counsel brings a putative class action on a contingency fee basis, counsel assumes "a substantial risk of non-payment for legal work and reimbursement of out-of-pocket expenses advanced." *In re Se. Milk*, 2013 WL 2155387, at *5. This factor therefore "accounts for the substantial risk an attorney takes when he or she devotes substantial time and energy to a class action despite the fact that it will be uncompensated if the case does not settle and is dismissed." *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766, 796 (E.D. Ohio 2010). Thus, the "[f]ailure to make any provision for risk of loss may result in systemic

undercompensation of plaintiffs' counsel in a class action case, where . . . the only fee that counsel can obtain is, in the nature of the case, a contingent one." *In re Cont'l Ill. Sec. Litig.*, 962 F.2d 566, 569 (7th Cir. 1992); *see also Blum*, 465 U.S. at 902 (Brennan, J., concurring) (noting "the risk of not prevailing, and therefore the risk of not recovering any attorney's fees, is a proper basis on which a district court may award an upward adjustment to an otherwise compensatory fee").

Here, Plaintiffs' Counsel undertook this litigation on a contingent fee basis. Lee Decl. ¶ 4. Plaintiffs' Counsel assumed a real risk that this litigation would yield no recovery, thereby leaving counsel entirely uncompensated for its time and its out-of-pocket expenses. *Id.* ¶ 50. Nevertheless, as reflected on the docket and as supported by the Lee Declaration, Plaintiffs' Counsel committed substantial time and money to the vigorous—and ultimately successful—prosecution of this litigation for the benefit of the Class. Accordingly, the contingent nature of Plaintiffs' Counsel's representation strongly favors approval of the requested fee. *Id.* ¶¶ 4, 51-53.

D. Public Policy Favors the Requested Award.

"Adequate compensatory fee awards in successful class actions promote private enforcement of and compliance with important areas of law." *In re Broadwing*, 252 F.R.D. at 381 (citing *Bateman Eichler, Hill Richards, Inc. v. Berner*, 472 U.S. 299, 310 (1985)). Accordingly, "[e]ncouraging qualified counsel to bring inherently difficult and risky but beneficial class actions . . . benefits society." *In re Cardizem*, 218 F.R.D. at 534. Plaintiffs' Counsel therefore undertook a difficult and time-consuming class action to provide the Class with a significant recovery for damages to which they were entitled. Lee Decl. ¶¶ 12-36. Awarding an appropriate fee will continue to encourage highly qualified counsel to undertake time-consuming class action litigation to vindicate the rights of other class members who otherwise might have no practical means of redress. This factor therefore also supports the requested fee award.

E. Complexity of the Litigation Favors the Requested Fee.

The complexity and novelty of the factual and legal issues presented, and the settlement negotiations necessary to resolve those issues, are factors to be considered in the approval of a fee request. *See Sulzer Hip Prosthesis & Knee Prosthesis*, 268 F. Supp. 2d 907, 939 (N.D. Ohio June 12, 2003).

The complexity in this case arises from the overlapping legal responsibilities and interlinked relationships of various parties who handled or reported the value of Plaintiffs' retirement accounts. Plaintiffs have been obliged to trace a web of financial transactions dating back over two decades; many of those transactions were directed or facilitated by individuals who are now deceased. Because the AMEC Plan was not an ERISA plan, Plaintiffs also had to operate in a field of state trust law that is less well-developed than ERISA case law. The determination and allocation of legal responsibilities under state law has been a major challenge throughout this litigation and a major factor in the protracted negotiations that produced these two Settlement Agreements.

F. Plaintiffs' Counsel Are Qualified Complex Litigation Practitioners Who Prevailed Against Skilled Defense Counsel.

Plaintiffs' Counsel submit that they have significant legal expertise, which they brought to bear in successfully prosecuting this case and securing settlements from the AME Defendants and Newport. Each member of the Plaintiffs' Steering Committee, Liaison Counsel, and Co-Lead Counsel have prepared declarations in support of this petition. Lee Decl. ¶ 10. *See* **Exhibits 1-8**. Attached as Exhibit A to each declaration is a firm resume detailing the robust experience and skill of Plaintiffs' Counsel and their colleagues. Lee Decl. ¶ 11. It is clear from the materials that Plaintiffs' Counsel have substantial expertise and decades of success nationwide in class actions, employment litigation, ERISA matters, and other forms of complex civil litigation.

The quality of opposing counsel is also important when the Court evaluates services provided by plaintiffs' counsel. *See Dick v. Sprint Commc'ns Co., L.P.*, 297 F.R.D. 283, 301 (W.D. Ky. 2014) ("Counsel for both sides are skilled attorneys who brought extensive experience and knowledge to their motion practice, the fairness hearing, and the bargaining table."); *see also In re Delphi*, 248 F.R.D. at 504 ("The ability of Co-Lead Counsel to negotiate a favorable settlement in the face of formidable legal opposition further evidences the reasonableness of the fee award requested.").

Here, the Settling Defendants are represented by highly qualified counsel. The AME Defendants are represented by lawyers from the firm Baker Donelson, Bearman, Caldwell & Berkowitz, a full-service law firm with two dozen offices and more than 600 attorneys who serve a wide variety of major clients. The AME Defendants are also represented by Hunton Andrews Kurth, an international law firm with more than 1,000 lawyers and numerous Fortune 100 clients. Newport is represented by the Groom Law Group, a DC-based law firm that specializes in issues relating to retirement plans and benefits. *See In re Se. Milk*, 2013 WL 2155387, at *4 ("Class counsel have efficiently and competently managed their enormous tasks and have vigorously and effectively prosecuted the case on behalf of the class. They have also been opposed by equally experienced and highly competent counsel for defendants and have achieved an excellent result for their clients.").

IV. The Court Should Approve Plaintiffs' Counsel's Request for Expenses.

"Expense awards are customary when litigants have created a common settlement fund for the benefit of a class." *Id.* at *8; *Broadwing,* 252 F.R.D. at 382 (awarding requested expenses as "reasonable and necessary expenses, including photocopying, postage, travel, lodging, filing fees and Pacer expenses, long distance telephone, telecopier, computer database research, deposition

expenses, and expert fees and expenses"); *Delphi*, 248 F.R.D. at 504. These expenses are typically awarded so long as they were "fair and reasonable." *In re Se. Milk*, 2013 WL 2155387 at *8.

Here, Plaintiffs' Counsel respectfully requests that the Court reimburse expenses of $1,326,003.68, reflecting the out-of-pocket expenses incurred from the inception of the case through March 31, 2025. Lee Decl. ¶¶ 55, 68. These include costs and expenses for document retention, depositions, and expert witnesses. *Id.* ¶¶ 57-62. Plaintiffs' Counsel incurred these charges with no guarantee of reimbursement. These charges were fair, reasonable, and incurred for the benefit of the Class, and therefore should be reimbursed.

V. The Requested Service Awards to the Named Plaintiffs are Reasonable.

Courts routinely approve service payments to recognize individuals' service to the class and to reward them for contributing to the enforcement of laws through the class action mechanism. *See, e.g.*, *Fruit of the Loom, Inc.*, 234 F.R.D. at 635 (approving reimbursement payments exceeding $27,000 to four lead plaintiffs in a class action). These awards are "intended to compensate class representatives for work done on behalf of the class, to make up for the financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general." *In re Se. Milk*, 2013 WL 2155387 at *8 (quoting *Rodriguez v. West Publ'g Corp.*, 563 F.3d 948, 958-59 (9th Cir. 2009)).

Here, the named Plaintiffs initiated this litigation, at the risk of their reputations in the broader AMEC community, and have been instrumental in securing resolution against the AME Defendants and Newport. Lee Decl. ¶ 75-76. They have diligently monitored the progress of the litigation, provided invaluable insight to Plaintiffs' Counsel about the AME Church, gathered documents and responded to discovery, prepared for and were deposed, and served as ambassadors for the litigation to fellow AME pastors and elders. They also reviewed and agreed to all terms of

the AME and Newport Settlements before they were executed. Accordingly, the named Plaintiffs respectfully request service awards of $20,000 each. This reward is well within the reasonable range for a case of this size and complexity, *See In re Se. Milk*, 2013 WL 2155387, at *8 (approving $10,000 incentive awards and referencing incentive awards in other cases of up to $50,000); *Landsman & Funk*, 2015 WL 2383358, at *8-9 (issuing $10,000 incentive award to representative plaintiff in TCPA class action).

Awarding these amounts to the named Plaintiffs will still result in extraordinary monetary compensation to participating Settlement Class Members.

CONCLUSION

For the foregoing reasons, Plaintiffs' Counsel respectfully requests that the Court (1) award attorney's fees totaling one-third of the AME and Newport Settlement Amounts (including of the interest earned on the Settlement Amounts prior to distribution); (2) award reimbursement for out-of-pocket expenses totaling $1,326,003.68 incurred from the inception of the case to March 31, 2025; and (3) award $20,000 to each Class Representative for a total of $200,000.

Dated this 7th day of May, 2025.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF MATTHEW E. LEE IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS FROM SETTLEMENTS WITH AME DEFENDANTS AND DEFENDANT NEWPORT GROUP, INC.

I, Matthew E. Lee, declare under penalty of perjury:

INTRODUCTION

1. I am a member in good standing of the State Bar of North Carolina and the State Bar of Florida, and a Senior Partner at the law firm of Milberg Coleman Bryson Phillips Grossman, PLLC ("Milberg"). The Court previously appointed me and Gregorio A. Francis as Interim Co-Lead Counsel. (ECF No. 68.)

2. On March 24, 2025, the Court granted preliminary approval of the settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF Nos. 774, 775.)

3. Pursuant to the Court's preliminary approval order (ECF No. 775 at ¶21), Plaintiffs are presently submitting a petition for an award of attorneys' fees and costs for Settlement Class Counsel and service awards for the Settlement Class Representatives in connection with services rendered in this Action so far and in connection with the settlements reached with the AME Defendants and Newport. Specifically, Plaintiffs are requesting:

   a. An award of one-third of the AME and Newport Settlement Amounts (including interest earned on the Settlement Amounts prior to distribution for attorneys'

fees);

b. An award of $1,326,003.68 for reimbursement of expenses incurred from the inception of the case to March 31, 2025; and

c. Service awards of $20,000 for each of the named Plaintiffs.

4. Plaintiffs' Counsel took this case on a contingency fee basis, as is common in these types of matters. Since our work on this case began in late 2021 and early 2022, we have not requested or received any compensation or reimbursement of litigation expenses.

5. I am submitting this declaration in support of Plaintiffs' petition. I am familiar with the facts stated below based on my own personal knowledge as well as my active supervision of and participation in the prosecution of this Action, from the pre-complaint investigation to date, and the settlement of claims against the AME Defendants and Newport. If called upon, I could and would testify competently about them.

QUALIFICATIONS OF PLAINTIFFS' COUNSEL

6. This action was originally initiated on March 4, 2022, when my firm filed a lawsuit in the Western District of Tennessee on behalf of Reverend Pearce Ewing against the AME Church Defendants, Newport, and others over the losses to the African Methodist Episcopal Church Retirement Annuity Plan ("the Plan"). A total of six lawsuits would eventually be filed in the spring of 2022 against the AME Defendants and others over the apparent losses to the Plan.

7. The six lawsuits were centralized on June 2, 2022 by the Judicial Panel on Multidistrict Litigation and transferred to the Western District of Tennessee for coordinated pretrial proceedings before the Honorable S. Thomas Anderson, Chief United States District Judge for the Western District of Tennessee. (ECF No. 1.)

8. On August 4, 2022, the Court appointed the leadership for this Action. (ECF No.

68). Greg Francis (Osborne & Francis Law Firm, PLLC) and I were appointed as Interim Co-Lead Counsel. Gerard Stranch (Stranch, Jennings & Garvey PLLC) was appointed as Liaison Counsel. And the following individuals were appointed to the Plaintiffs' Steering Committee: Dhamian Blue (of Blue LLP); Richard Schulte (Wright & Schulte LLC); Dean Graybill (AARP Foundation); Kenneth Byrd (Lieff Cabraser Heimann & Bernstein, LLP); and Elizabeth Hopkins (Kantor & Kantor LLP). In August of 2024, Dean Graybill was replaced by his colleague Julie Nepveu (AARP Foundation) and Elizabeth Hopkins (Kantor & Kantor LLP) was replaced by her colleague Susan Meter. (ECF Nos. 485, 487.)

9. Collectively, Plaintiffs' Counsel has decades of experience in complex civil litigation, class action litigation, and employment litigation, and have brought that experience to bear in this Action, including negotiating resolution with the AME Defendants and Newport.

10. Each member of the Plaintiffs' Steering Committee, along with Co-Lead Counsel and Liaison Counsel, are submitting declarations in support of this petition for attorneys' fees, costs, and services. The declarations are being submitted as exhibits to Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards as follows:

Exhibit 2 – Declaration of Gregorio A. Francis, Co-Lead Counsel (Osborne & Francis)

Exhibit 3 – Declaration of Gerard Stranch, Liaison Counsel (Stranch Jennings & Garvey)

Exhibit 4 – Declaration of Julie Nepveu, PSC Member (AARP Foundation)

Exhibit 5 – Declaration of Dhamian Blue, PSC Member (Blue LLP)

Exhibit 6 – Declaration of Susan Meter, PSC Member (Kantor & Kantor)

Exhibit 7 – Declaration of Kenneth S. Byrd, PSC Member (Lieff Cabraser)

Exhibit 8 – Declaration of Richard Schulte, PSC Member (Wright & Schulte)

11. Attached as Exhibit A to each declaration is a firm resume detailing the background

and experience of each member of the Plaintiffs' Steering Committee, Liaison Counsel, and Co-Lead Counsel as well as that of their participating colleagues. Milberg's firm resume detailing my and my colleagues' experience is attached here as **Exhibit A**.

HISTORY OF PLAINTIFFS' CASE TO DATE

12. On August 19, 2022, Plaintiffs filed a Consolidated Amended Class Action Complaint against the AME Defendants, Newport, and the Non-Settling Defendants[1]. (ECF No. 74). The AME Defendants moved to partially dismiss Plaintiffs' claims (ECF No. 99), Newport moved to dismiss Plaintiffs' claims against it (ECF No. 100), and Defendant Symetra Life Insurance Company moved to dismiss Plaintiffs' claims against it (ECF No. 111). Plaintiffs opposed all three motions to dismiss. (ECF Nos. 115, 132, 141.) Defendant Dr. Jerome V. Harris answered (ECF No. 120) as did Defendants Robert Eaton and Financial Freedom Group, Inc. (ECF No. 129) and Defendant Jarrod Erwin (ECF No 189) after Plaintiffs opposed a motion for a protective order on behalf of Jarrod Erwin (ECF No 187).

13. On March 17, 2023, the Court granted the AME Defendants' partial motion to dismiss Plaintiffs' claims in the Consolidated Amended Class Action Complaint (the AME Defendants did not move to dismiss Plaintiffs' claims for negligence and breach of fiduciary duty). (ECF No. 197.) In the same order, the Court granted in part and denied in part Newport and Symetra's motion to dismiss Plaintiffs' claims in the Consolidated Amended Class Action Complaint, finding that Plaintiffs stated plausible claims for breach of fiduciary duty and

[1] "Non-Settling Defendants" means: Defendants Symetra Life Insurance Company ("Symetra"); Daniel Parrish of Parrish Law, LLC, Administrator Ad Litem of the Estate of Jerome V. Harris deceased; Robert Eaton; Financial Freedom Funds, LLC; Financial Freedom Group, Inc.; Financial Technologies, LLC; Motorskill Ventures, Inc.; Motorskill Ventures I, L.P.; Motorskill Asia Ventures 1, L.P.; Rodney Brown and Company; Trinity Financial Consultants, LLC; Sandra Harris; Day and Night Solar, LLC; Doe Corporations 1-10; and John Does 1-10.

negligence against Symetra and Newport.

14. Thereafter, the discovery efforts in this case began in earnest, and our efforts have been immense.

15. Between April of 2023 and October of 2024, the AME Defendants produced close to 6,000 documents (including the documents seized by the FBI from Dr. Harris) totaling almost 425,000 pages and have continued to produce thousands of additional documents in the last few months. Between January of 2023 and March of 2024, Newport alone produced almost 15,000 documents totaling almost 774,000 pages. The Non-Settling Defendants collectively have produced almost 10,000 documents since December of 2022 (which includes singular PDFs consisting of thousands of pages each). Plaintiffs also engaged in third-party discovery, issuing numerous subpoenas to entities including CBIZ, Deutsche Bank, JP Morgan, Regions Bank, and Truist, and receiving more than 2,100 documents in return.

16. Plaintiffs' Counsel also actively litigated in the United States Bankruptcy Court for the Southern District of Texas after Defendant Jarrod Erwin filed for bankruptcy on April 7, 2023 and noticed the automatic stay of all legal proceedings against him, significantly disrupting the progress of this case. (ECF No. 205). Undeterred we pressed on in the Erwin Bankruptcy, forcing production of tens of thousands of additional documents from Jarrod Erwin and the Motorskill Defendants. We also participated in the Section 341 Meeting of Creditors and conducted Rule 2004 examinations of Defendant Jarrod Erwin and his brother Ryan Erwin, and otherwise made significant progress for the putative class despite the stay. *See In re Jarrod Reed Erwin*, No. 4:23-bk-31315 (Bankr. ECF Nos. 5, 10, 18, 28, 41, 55, 96, 112, 114, 118).

17. In the Erwin Bankruptcy, Plaintiffs reviewed 60 bankers' boxes of hard copy documents and gathered only a subset of those documents to be copied electronically. (ECF Nos.

324, 336). Symetra later compelled the full collection of documents from Jarrod Erwin in the bankruptcy and produced all 60 bankers' boxes worth of documents in the MDL, which amounted to more than 8,000 documents totaling more than 105,000 pages.

18. In total, including the documents from the AME Defendants, Newport, the Non-Settling Defendants, and the Erwin Bankruptcy, there have been more than 53,000 documents totaling approximately a million and a half pages of documents produced in this case so far.

19. Between the end of January and beginning of May of 2024, Plaintiffs took nine depositions of AME witnesses including: a Rule 30(b)(6) deposition related to ESI and document retention and the depositions of Dr. James Miller, the Executive Director of the Department of Retirement Services who took over after Dr. Harris retired, Dr. Richard Allen Lewis, the retired Treasurer and Chief Financial Officer of the AME Church, as well as Irven Wright and Gloria Peterson, long-time employees of the Department of Retirement Services.

20. Between the beginning of April and the beginning of July of 2024, Plaintiffs took ten depositions of former and current Newport and Symetra employees as well as the depositions of Defendants Robert Eaton and a Rule 30(b)(6) deposition of Financial Freedom Group.

21. Between August of 2024 and February of 2025, Plaintiffs took an additional twelve depositions including a 30(b)(6) deposition of Symetra, three depositions of witnesses related to Robert Eaton and Day and Night Solar, the continued deposition of Rodney Brown, the outside auditor of the AME Department of Retirement Services, a 30(b)(6) deposition of Day and Night Solar, LLC, the depositions of four additional Symetra witnesses including Symetra's current CEO Margaret Meister, and the re-opened depositions of several Newport and Symetra witnesses. In addition, another seven depositions of AME witnesses and other individuals were noticed and taken by the Non-Settling Defendants.

22. In total and to date, including nine of the named plaintiffs, 49 unique witnesses or parties have been deposed in both individual and 30(b)(6) depositions, and eight of those took more than one day.

23. Plaintiffs have moved for, or responded to, numerous discovery disputes throughout the course of the litigation including, for example, early on in the litigation in December of 2022 when the AME Defendants sought a total of 180 days to respond to Plaintiffs' initial discovery requests (ECF Nos. 163, 164, 167) and in January of 2023 after Symetra refused to provide its insurance policies as required by Federal Rule of Civil Procedure 26 (ECF Nos. 184, 191), and more recently in the litigation in December of 2024 after Symetra objected to the production of arbitration materials by the AME Defendants (ECF Nos. 615, 650, 676, 679, 689) and to the production of financial information in response to discovery requests (ECF Nos. 616, 652, 723, 743) and in February of 2025 after Defendant Day and Night Solar failed to respond to discovery requests and provide an adequate witness to provide 30(b)(6) testimony (ECF Nos. 732, 747).

24. On July 5, 2024, Plaintiffs moved for leave to amend and file a Second Consolidated Amended Class Action Complaint, (ECF No. 440), which the Court granted on August 5, 2024, (ECF No. 471). Plaintiffs thereafter filed their Second Consolidated Amended Complaint against the AME Defendants, Newport, and the Non-Settling Defendants on August 29, 2024. (ECF No. 493).

25. Following two early mediation sessions in February and May of 2023, Plaintiffs mediated with the AME Defendants before Justice Janice Holder for a third time on July 30, 2024. Plaintiffs and the AME Defendants continued to negotiate for several days after that and, following additional discussions and negotiations with Justice Holder, reached an agreement on all material terms of a settlement and later signed a binding Memorandum of Understanding reflecting the

agreement on August 24, 2024.

26. On September 20, 2024, Symetra moved to dismiss all of Plaintiffs' claims in the Second Consolidated Amended Complaint. Newport moved to dismiss all of Plaintiffs' claims except breach of fiduciary duty and professional negligence, (ECF No. 521), and the parties fully briefed that motion (ECF Nos. 590, 629). The AME Defendants partially moved to dismiss Plaintiffs' claims as well, (ECF No. 522), but the parties stayed further briefing in light of their potential settlement.

27. Plaintiffs initially filed for preliminary approval of the AME Settlement on December 13, 2024 (ECF No. 627, 628), which Symetra, Robert Eaton, and Financial Freedom Group, Inc. opposed (ECF Nos. 662, 664). This motion for preliminary approval was later withdrawn and replaced after a settlement was reached with Newport.

28. Following Newport's motions to dismiss the Plaintiffs' Second Amended Consolidated Complaint and the AME Defendants' Second Amended Cross-Complaint, Newport initiated settlement discussions with Plaintiffs as well as the AME Defendants through their respective counsel.

29. On February 3, 2025, following two mediation sessions and numerous discussions facilitated by mediator A. Lee Parks, Plaintiffs, Newport, and the AME Defendants each accepted Mr. Parks' triple-blind settlement proposal and an agreement was reached. The Settling Parties worked diligently that same day to come to an agreement on the material terms of a settlement, and they signed a term sheet on the morning of February 4, just prior to the status conference set for later that morning.

30. Additionally, on January 31, 2025, Plaintiffs served their initial expert disclosures and reports for three expert witnesses: (1) Harris Devor, a Certified Public Accountant engaged by

Class Counsel in part to estimate the losses suffered by Plan participants between January 1, 2002 and June 30, 2021 under a hypothetical investment scenario and in accordance with the Statement on Standards for Forensic Services No. 1; (2) Martin Dirks, a financial investment professional engaged by Class Counsel in part to provide opinions on the relevant considerations for investing a retirement plan, whether the Plan's assets were appropriately invested, and, using appropriate historical peer benchmarks and calculations provided by Devor, calculate historic damages to Plan participants; and (3) Eric Dyson, a retirement plan industry professional engaged by Class Counsel in part to provide opinions on whether Newport, Symetra, Dr. Harris, and Bob Eaton met their applicable standards of care.

31. On March 4, 2025, Plaintiffs filed for preliminary approval of both the AME and Newport Settlements (ECF No. 750) and, following the Court's grant of preliminary approval on March 24, 2025 (ECF No. 774, 775) (over Symetra's opposition), Plaintiffs' Counsel worked with the settlement administrator to issue notice to the Class on April 7, 2025 (ECF No. 783). Plaintiffs' Counsel has been answering questions from Class Members since notice was disseminated and are preparing to file for final approval on June 12, 2025.

32. Lastly, various Plaintiffs' Counsel have attended 15 in-person status conferences so far to inform the Court on the progress of the litigation as well as to address any outstanding issues (in addition to a couple of separate, in-person motions hearings and telephonic status conferences on discrete issues). Prior to each status conference, as Co-Lead Counsel, my colleagues and I prepared and circulated a draft status report amongst all parties and coordinated edits amongst all the parties before filing the joint status report with the Court.

SUMMARY OF PLAINTIFFS' COUNSEL'S LITIGATION EFFORTS, LODESTAR, AND EXPENSES

33. From the inception of this case to the present, Class Counsel has skillfully,

vigorously, and diligently pursued this litigation in the face of skilled and robust opposition from the Settling and Non-Settling Defendants and their counsel.

A. Litigation Efforts

34. Overall and in summary of the litigation history detailed above, the efforts by Plaintiffs' Counsel in this MDL have included the following: communicating with and updating Plaintiffs and Class Members throughout the litigation; investigating and developing the claims, including pre-filing factual and legal development; drafting the initial complaint and subsequent amended complaints; opposing the various defendants' motions to dismiss the Consolidated Amended Complaint and the Second Consolidated Amended Complaint; drafting discovery requests; drafting discovery responses and coordinating with Plaintiffs to respond to defendants' discovery requests; reviewing written discovery responses and documents from defendants and various third parties; addressing deficiencies in discovery responses and document productions with opposing counsel; drafting or responding to discovery motions; preparing for and/or taking depositions of numerous fact witnesses; preparing for and defending depositions of Plaintiffs; engaging and working with experts to prepare expert reports; arguing various motions and issues before the Court; mediating the case at different stages of the litigation; negotiating settlements; addressing Class Members inquiries regarding the litigation and settlement; overseeing the settlement administration process; and meeting with and discussing litigation strategy with co-counsel.

35. As Co-Lead Counsel, Greg Francis and I and our colleagues have taken part in all aspects of the litigation. To ensure the effective and efficient use of Plaintiffs' Counsel and their services and resources and to eliminate redundancies, Greg and I endeavored to assign tasks and responsibilities amongst the Plaintiffs' Steering Committee to the extent possible.

36. Gerard Stranch and his colleagues at Stranch, Jennings & Garvey have taken a primary role in drafting pleadings, motions, and briefs, and in arguing motions. Dhamian Blue and his colleagues at Blue LLP have taken a primary role managing and communicating with clients and defending depositions. Richard Schulte and his colleagues at Wright & Schulte have taken a primary role in working with experts and related document review. Julie Nevpeu and her colleagues at AARP Foundation have taken a primary role in investigating facts, managing and communicating with clients, and reviewing documents. Kenny Byrd and his colleagues at Lieff Cabraser have taken a primary role in drafting pleadings, motions, and briefs, preparing for and taking depositions, and working with experts. Susan Meter and her colleagues at Kantor & Kantor have taken a primary role in drafting and responding to discovery requests, reviewing documents, preparing for and taking depositions, and working with experts.

37. Plaintiffs' Counsel are also currently overseeing the notice process for the AME and Newport Settlements, which has included fielding questions from dozens of Class Members about both settlements and the case in general. We will also be moving for final approval of both settlements in June of 2025. Further, because this MDL remains in active litigation against the Non-Settling Defendants, the efforts of Plaintiffs' Counsel continue, with expert discovery actively underway, dispositive motions on the horizon, and preparation for trial to start in the near term.

38. Plaintiffs' Counsel believes that all of the work described above has been reasonable and necessary for the prosecution of this Action to date and to reaching resolution with the AME Defendants and Newport.

B. Lodestar

39. As Co-Lead Counsel, Greg Francis and I created a Protocol for Time and Expense Reporting at the onset of this MDL to guide the timekeeping and expense reporting by Plaintiffs'

Counsel. The Protocol delineates between non-compensable and compensable work (work done and expenses incurred that inure to the benefit of the Class) and places limitations on expense reimbursements. Plaintiffs' Counsel attorneys and staff were directed to categorize time spent on compensable work in this litigation (work done and expenses incurred that inure to the benefit of the Class) into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

40. The Protocol explained how attorneys and staff should categorize their compensable work and included certain stipulations on time and billing rates such as a capped billing rate (at that of a junior associate) for Category 9: Document Review time.

41. Plaintiffs' Counsel were required to submit monthly time and expense reports in accordance with the Time and Expense Protocol for review by Co-Lead Counsel and were also required to keep accurate and contemporaneous time and billing records in support of their monthly time and expense submissions.

42. In preparation for submitting this petition, I have reviewed the time and expense reports for each member of the PSC and Liaison Counsel and ensured that the Time and Expense Protocol was adhered to. For example, reductions were made for document review time in accordance with the capped billing rate stipulation in the Protocol and certain travel expenses were reduced in accordance with the limitations set forth in the Protocol.

43. As explained in the accompanying memorandum, when applying the lodestar method, the Court calculates "the reasonable number of hours submitted multiplied by the attorneys' reasonable hourly rates," which the Court then increases using a "multiplier" to account for, *inter alia*, the costs and risks involved in the litigation. *In re Telectronics Pacing Sys. Inc*., 137 F. Supp. 2d 1029, 1041 (S.D. Ohio 2001). There is a "strong presumption" that counsel is entitled to their lodestar fee. *Adcock-Ladd v. Sec'y of Treasury*, 227 F.3d 343, 350 (6th Cir. 2000).

44. The following chart summarizes the hours and lodestar incurred by all Plaintiffs' Counsel as of March 31, 2025, recorded at each firm's approved and current hourly rates:

Firm	Hours	Lodestar
Milberg Coleman Bryson Phillips Grossman, PLLC	8,366.3	$6,484,908.40
Osborne & Francis Law Firm	3,815.2	$3,834,639.00
Stranch, Jennings & Garvey, PLLC	1,243.3	$1,197,068.60
AARP Foundation	359.4	$259,255.10
Blue LLP	285.5	$171,300.00
Kantor & Kantor LLP	1,655.7	$1,526,705.50
Lieff Cabraser Heimann & Bernstein, LLP	3,065.7	$2,567,697.10
Wright & Schulte LLC	703.2	$426,180.00
TOTALS – ALL FIRMS	**19,494.3**	**$16,467,751.00**

45. From inception of this matter through March 31, 2025, Plaintiffs' Counsel have expended 19,494.3 hours in this case, yielding a lodestar of $16,467,751.

46. The declarations of Plaintiffs' Steering Committee, Liaison Counsel, and Co-Lead Counsel (**Exhibits 2 – 8** to Plaintiffs' Motion, see paragraph 8 above) further detail the hours spent

on this litigation by attorneys and staff at their firms and the hourly rates customarily used and approved by their firms.

47. Attached as Exhibit B to each declaration is a chart summarizing the time spent by each member of the Plaintiffs' Steering Committee, Liaison Counsel, and Co-Lead Counsel and their participating colleagues by aspect of the case pursuant to Local Rule 54.1(b)(1). A chart summarizing the time spent by me and my colleagues at Milberg by aspect of the case is attached here as **Exhibit B**.

48. Plaintiffs' Counsel's billing rates for this case are all consistent with court-approved rates charged by plaintiffs' attorneys for work of this nature in other MDLs and class actions around the country. *See e.g.*, *In re: CertainTeed Fiber Cement Siding Litig.*, MDL No. 2270 (E.D. Pa. 2014); *In re: CertainTeed Roofing Shingle Products Liability Litig.*, No. 07-MDL-1817 (E.D. Pa. 2010); *Morrison v. Ross Stores, Inc*., No. 4:18-CV-2671-YGR, 2021 WL 3852726 (N.D. Cal. Aug. 27, 2021); *In re Vioxx Products Liability Litig.*, MDL No. 1657 (E.D. La. 2011); *Eliason v. Gentek Building Products, Inc.*, No. 10- 2093 (N.D. Ohio 2013); *In re: JP Morgan Chase Mortgage Modification Litig.*, No. 11-md2290 (D. Mass. 2014); *United Desert Charities v. Sloan Valve Co.*, No. 12-6878 (C.D. Cal. 2014); *Pollard v. Remington Arms Company, LLC*, No. 4:13-cv-00086-ODS (W.D. Mo. 2017); *Newman v. Metropolitan Life Insurance Company*, No. 1:11-cv-03530 (N.D. Ill. 2019); *In re Apple Inc. Device Performance Litig.*, MDL No. 2827 (N.D. Cal. 2020*)*; *Hill v. Canidae Corp.*, No. 20-1374 (C.D. Cal. 2021).

49. Plaintiffs and the Class are represented by law firms with specialized, national practices. Accordingly, I believe that Plaintiffs' Counsel's rates are reasonable, particularly given the success of the AME and Newport Settlements and the practices of each member of the Plaintiffs' Steering Committee, Liaison Counsel, and Co-Lead Counsel.

50. Plaintiffs are requesting as an award of attorneys' fees one-third of the AME and Newport Settlement Amounts (including interest earned prior to distribution). We estimate that the interest earned on the Settlement Amounts prior to distribution will be approximately $1 million. Accordingly, the requested fee award carries a multiplier of at least 1.21 to the total lodestar and may increase slightly depending on the actual amount of interest earned. For example, if the total interest earned is $1,200,000 and Plaintiffs receive one-third of that interest as part of the attorneys' fee award ($400,000), the multiplier will increase marginally to 1.23.

51. Plaintiffs' Counsel believe that a multiplier is appropriate in this case to recognize the "risk an attorney assumes in undertaking a case, the quality of the attorney's work product, and the public benefit achieved." *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766, 794 (N.D. Ohio 2010).

52. Plaintiffs' Counsel assumed a very real risk in taking on this contingent fee case. When the loss in value to the Plan was revealed in 2021 and Plaintiffs filed the first cases in 2022, there was no way of knowing whether there would ever be a path to recovery for the Plan. Even at the early mediation in February of 2023, Newport and other defendants made no offers whatsoever to resolve this case. And it appeared very quickly that none of the millions of dollars that were transferred to the Motorskill companies was ever going to be clawed back—that money was truly gone, and Plaintiffs would have to seek sources of recovery elsewhere. Plaintiffs' Counsel therefore forged ahead and into litigation in earnest, investing enormous amounts of time, effort, and money over the last two-plus years with absolutely no guarantee of any recovery. If this case had continued to be litigated and Plaintiffs were ultimately unsuccessful in their claims, Plaintiffs' Counsel would not be entitled to recover any attorneys' fees or costs.

53. By any standard and as will be explained further at the fairness hearing, the AME

and Newport Settlements constitute highly favorable results for the Class made possible by the dedication and skill of Plaintiffs' Counsel under very difficult circumstances.

54. Lastly, as Co-Lead Counsel, Greg Francis and I have been directly involved in all aspects of this litigation from the initial investigation through settlements with the AME Defendants and with Newport. We have the understanding and capacity to distribute an award of attorneys' fees amongst Plaintiffs' Counsel based upon each firm's lodestar and the value of each counsel's contributions to this case so far as well as to the AME and Newport Settlements.

C. Expenses

55. This litigation also required Class Counsel to advance costs. Because the risk of advancing costs in this type of litigation is significant, doing so is often cost prohibitive to many attorneys and law firms.

56. Although Plaintiffs' Counsel is continuing to incur expenses in this litigation against the Non-Settling Defendants, Plaintiffs' Counsel is only seeking reimbursement now of expenses incurred up to March 31, 2025. If there is additional recovery for the Class in the future, then we will seek reimbursement for those expenses at that later time.

57. The expenses incurred from the inception of this case to March 31, 2025, were all reasonable and necessary to achieve settlement with both the AME Defendants and Newport and in litigating against the Non-Settling Defendants.

58. At the outset of the litigation, we established a Litigation Fund to facilitate the sharing of certain costs, such as deposition services, document repository services, expert witness and consultant fees, and mediation fees. Plaintiffs' Counsel have paid assessments into the Litigation Fund at different points. Those assessments are in addition to the regular litigation expenses incurred for things such as travel and meals, printing and copying, and legal research.

About half of all costs incurred from inception to March 31, 2025 were paid from the Litigation Fund and the other half were paid by firms directly.

59. The following chart summarizes the expenses incurred by Plaintiffs' Counsel as of March 31, 2025:

	Expense Category	Total Amount - All Firms
1	Litigation Fund Assessments	$700,000.00
2	Federal Express / Local Courier	$2,384.03
3	Postage Charges	$255.37
4	Facsimile Charges	
5	Long Distance Charges	$15.25
6	In-House Photocopying	$51,200.96
7	Outside Photocopying	$2,853.50
8	Hotels	$99,092.56
9	Meals	$39,038.51
10	Mileage	$1,670.83
11	Air Travel	$103,427.42
12	Deposition Costs	$152,718.13
13	Lexis/Westlaw/PACER	$6,665.71
14	Witness and Expert Expenses	$87,298.85
15	Court Fees	$2,123.00
16	Investigation Fees / Service Fees	$18,890.54
17	Hearing and Trial Transcripts	$654.96
18	Ground Transportation	$29,466.76
19	Miscellaneous	$43,283.31
TOTAL EXPENSES – ALL FIRMS		**$1,341,039.69**

60. Of the $700,000 in assessments to Plaintiffs' Counsel, $684,963.99 was spent as of March 31, 2025. The breakdown of the expenses paid out of the Litigation Fund is as follows:

Expense	Amount
Document Retention	$62,888.56
Copying & Scanning	$13,960.92
Deposition Services	$1,146.50
Experts	$584,675.05
Mediation Fees	$20,592.06
Travel Costs for Mediation	$1,355.90
Wire Fees	$75.00
TOTAL	**$684,963.99**

61. At this time, we are only seeking what was spent ($684,963.99), not what was assessed ($700,000).

62. There were additional, significant expenses incurred by Plaintiffs' Counsel that we are not submitting to the Court for reimbursement as an exercise of discretion.

63. The expenses incurred by Plaintiffs' Counsel are reflected in the books and records of each firm. The books and records are prepared from expense vouchers, invoices, receipts, and other reasonable supporting records and are an accurate record of the expenses incurred. Additionally, in accordance with the Protocol for Time and Expense Reporting, Liaison Counsel and the Plaintiffs' Steering Committee submitted monthly expenses reports to Co-Lead Counsel for review.

64. The declarations of Plaintiffs' Steering Committee, Liaison Counsel, and Co-Lead Counsel (**Exhibit 2 – 8** to Plaintiffs' Motion, see paragraph 8 above) further detail the expenses incurred in this litigation by their firms.

65. Attached as Exhibit C to each declaration is a chart summarizing the expenses incurred in this litigation by each member of the Plaintiffs' Steering Committee, Liaison Counsel, and Co-Lead Counsel and their participating colleagues. A chart summarizing the expenses incurred by me and my colleagues at Milberg is attached here as **Exhibit C**.

66. Prior to paying any invoice or fee out of the Litigation Fund, as Co-Lead Counsel, my colleagues and I diligently reviewed invoices from vendors and other service providers to ensure that the services charged for things such as document retention and depositions were only those strictly necessary for completing that function. This review resulted in, as one example, thousands of dollars in savings on deposition invoices alone.

67. Because Plaintiffs' Counsel is only seeking reimbursement for expenses incurred

through March 31, 2025, and as of March 31, there was $15,036.01 remaining in the Litigation Fund that had yet to be used, we will credit that amount toward the total expenses incurred by the law firms.

68. To summarize, Plaintiffs' Counsel is seeking reimbursement for **$1,326,033.68** in expenses that were necessary to effectively and efficiently prosecute this litigation from inception to March 31, 2025.

MILBERG'S TIME AND EXPENSES

69. My firm adhered to the Protocol for Time and Expense Reporting as well, and Milberg's attorneys and staff categorized their time spent on this litigation into one of the 18 litigation categories set forth in the Protocol. *See supra* Paragraph 39.

70. In connection with preparing this declaration, I have reviewed Milberg's time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by Milberg on this litigation from inception through March 31, 2025 is 8,366.30. Based on our current billing rates, Milberg's total lodestar for this litigation from inception through March 31, 2025 is $6,484,908.40. A summary breakdown of Milberg's lodestar is provided in **Exhibit B** attached here to my declaration.

71. The hourly rates shown in **Exhibit B** are Milberg's standing billing rates for contingent cases and are consistent with hourly rates submitted by my firm in other class action or complex litigation. For personnel who are no longer employed by Milberg, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment at Milberg.

72. Regarding expenses, my firm has contributed to the Litigation Fund on three occasions for a total of $140,000. **Exhibit C** attached here to my declaration reflects Milberg's contributions to the Litigation Fund.

73. Additionally, my firm has incurred a number of costs related to such activities as service of process, service of subpoenas, travel for depositions, hearings, or status conferences, and printing and copying. We have also advanced costs related to deposition transcripts and document storage at times to avoid the necessity of collecting another assessment from the Plaintiffs' Steering Committee and Liaison Counsel for the Litigation Fund. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**

74. The total amount of expenses incurred from the inception of this litigation through March 31, 2025 for which Milberg is seeking reimbursement is $463,636.98.

SERVICE AWARDS

75. Plaintiffs' Counsel requests a service award of $20,000 for each of the ten named Plaintiffs: Reverend Pearce Ewing, Reverend Charles R. Jackson, Presiding Elder Cedric V. Alexander; Reverend Derrell Wade; Reverend Reuben J. Boyd; Presiding Elder Phillip Russ, IV, Lynette Glenn as the court-appointed guardian of her father Reverend Marcius King; Reverend Matthew Ewing; Candace L. Carmichael as administrator of the Estate of Reverend A. Offord Carmichael, deceased, and Reverend Diane Conley.

76. Each of the ten named Plaintiffs bravely stepped forward to pursue claims against the AME Defendants, Newport, and the Non-Settling Defendants after the loss in value to the Plan was uncovered. That decision put these Plaintiffs at risk of retaliation and reputational harm,

particularly within the AMEC community. And the Plaintiffs did in fact experience retaliation and reputational harm to a certain degree. The Plaintiffs have also diligently followed and monitored the overall progress of the litigation and have been in regular communication with Plaintiffs' Counsel, offering insight into the structure and operations of the AME Church and assistance to Plaintiffs' Counsel whenever needed. They have gathered documents and answered discovery, reviewed and approved relevant pleadings, reviewed decisions and orders of the Court, fielded numerous questions from fellow AME pastors and elders throughout the course of the litigation, and attended many of the depositions virtually. Additionally, all named Plaintiffs (except for Reverend A. Offord Carmichael whose health declined as the case progressed before he died in October of 2024) prepared for and were deposed by the AME Defendants, Newport, and the Non-Settling Defendants.

77. Accordingly, these ten men and women of the AME Church should be awarded $20,000 each for stepping forward and serving as representatives of the Class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: May 7, 2025.

/s/ Matthew E. Lee
Matthew E. Lee
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, LLC
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EXHIBIT A


Milberg.
COLEMAN BRYSON PHILLIPS GROSSMAN

Milberg.
COLEMAN BRYSON PHILLIPS GROSSMAN

Milberg Coleman Bryson Phillips Grossman ("Milberg") is an AV-rated international law firm with more than 100 attorneys and offices across the United States, the European Union, and South America. Combining decades of experience, Milberg was established through the merger of Milberg Phillips Grossman LLP, Sanders Phillips Grossman LLC, Greg Coleman Law PC, and Whitfield Bryson LLP.

Milberg prides itself on providing thoughtful and knowledgeable legal services to clients worldwide across multiple practice areas. As a global leader in class action litigation, the firm represents plaintiffs in the areas of antitrust, securities, financial fraud, consumer protection, employment and civil rights, defective drugs and devices, environmental litigation, financial and insurance litigation, and cyber law and security.

For over 50 years, Milberg and its affiliates have been protecting victims' rights. We have recovered over $50 billion for our clients. Our attorneys possess a renowned depth of legal expertise, employ the highest ethical and legal standards, and pride ourselves on providing stellar service to our clients. We have repeatedly been recognized as leaders in the plaintiffs' bar and appointed to numerous leadership roles in prominent national class actions and mass torts.

Milberg challenges corporate wrongdoing through class action, mass tort, consumer and shareholder right services, both domestically and globally.

In the United States, Milberg currently holds more than 100 court-appointed full- and co-leadership positions in state and federal courts across the country. Our firm has offices in California, Chicago, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, New Jersey, New York, North Carolina, South Carolina, Tennessee, Washington, Washington D.C., and Puerto Rico. Milberg's commitment to its clients reaches beyond the United States, litigating antitrust, securities, and consumer fraud actions in Europe and South America, with offices located in the United Kingdom, and the Netherlands. Milberg prides itself on providing excellent service worldwide.

The firm's lawyers have been regularly recognized as leaders in the plaintiffs' bar by the National Law Journal, Legal 500, Chambers USA, Time Magazine, and Super Lawyers, among others.

PRACTICE AREAS

SECURITIES FRAUD

Milberg pioneered the use of class action lawsuits to litigate claims involving investment products, securities, and the banking industry. Fifty years ago, the firm set the standard for case theories, organization, discovery, methods of settlement, and amounts recovered for clients. Milberg remains among the most influential securities litigators in the United States and internationally.
Milberg and its attorneys were appointed Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases throughout its history.

ANTITRUST & COMPETITION LAW

For over fifty years, Milberg's Antitrust Practice Group has prosecuted complex antitrust class actions against defendants in the healthcare, technology, agriculture, and manufacturing industries engaged in price-fixing, monopolization and other violations of antitrust law and trade restraints.

FINANCIAL LITIGATION

For over five decades, Milberg has spearheaded litigation challenging unethical practices by some of the biggest financial and insurance institutions in the world and have been at the cutting edge of cases that directly impacted large banks, lenders, and insurers.

CONSUMER PROTECTION

Milberg's Consumer Protection Practice Group focuses on improving product safety and protecting those who have fallen victim to deceptive marketing and advertising of goods and services and/or purchased defective products. Milberg attorneys have served as Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases alleging the sale of defective products, improper marketing of products, and violations of consumer protection statutes.

DANGEROUS DRUGS & DEVICES

Milberg is a nationally renowned firm in mass torts, fighting some of the largest, wealthiest, and most influential pharmaceutical and device companies and corporate entities in the world. Our experienced team of attorneys has led or co-led numerous multidistrict litigations of defective drugs and medical devices.

EMPLOYMENT & CIVIL RIGHTS

Milberg's Employment & Civil Rights attorneys focus on class actions and individual cases nationwide arising from discriminatory banking and housing practices, unpaid wages and sales commissions, improperly managed retirement benefits, workplace discrimination, and wrongful termination.

ENVIRONMENTAL LITIGATION & TOXIC TORTS

Milberg's Environmental Litigation & Toxic Torts Practice Group focuses on representing clients in mass torts, class actions, multi-district litigation, regulatory enforcement, citizen suits, and other complex environmental and toxic tort matters. Milberg and its attorneys have held leadership roles in all facets of litigation in coordinated proceedings, with a particular focus on developing the building blocks to establish general causation, which is often the most difficult obstacle in an environmental or toxic tort case.

STATE & LOCAL GOVERNMENTS

Milberg attorneys are dedicated to defending the Constitutional and statutory rights of individuals and businesses that are subjected to unlawful government exactions and fees by state and local governments or bodies.

INFORMATION TECHNOLOGY

Milberg is a leader in the fields of cyber security, data breach litigation, and biometric data collection, litigating on behalf of clients – both large and small – to change data security practices so that large corporations respect and safeguard consumers' personal data.

APPELLATE

Consisting of former appellate judges, experienced appellate advocates, and former law clerks who understand how best to present compelling arguments to judges on appeal and secure justice for our clients beyond the trial courts, Milberg's Appellate Practice Group boasts an impressive record of success on appeal in both state and federal courts.

LEADERSHIP ROLES

In re: Google Play Consumer Antitrust Litigation
In re: Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation
In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices & Products Liability Litigation In re: Blackbaud Inc., Customer Data Breach Litigation
In re: Paragard IUD Products Liability Litigation
In re: Seresto Flea & Tick Collar, Marketing Sales Practices & Product Liability Litigation
In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation
In re: Allergan Biocell Textured Breast Implant Products Liability Litigation
In re: AME Church Employee Retirement Fund Litigation
In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation
In re: Guidant Corp. Implantable Defibrillators Product Liability Litigation
In re: Ortho Evra Products Liability Litigation
In re: Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation
In re: Kugel Mesh Hernia Patch Products Liability Litigation
In re: Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation
In re: Stand 'N Seal Products Liability Litigation
In re: Chantix (Varenicline) Products Liability Litigation
In re: Fosamax (alendronate Sodium) Products Liability Litigation
In re: Benicar (Olmesartan) Products Liability Litigation
In re: Onglyza (Saxagliptin) & Kombiglyze Xr (Saxagliptin & Metformin) Products Liability Litigation
In re: Risperdal and Invega Product Liability Cases
In re: Mirena IUS Levonorgestrel-Related Products Liability Litigation
In re: Incretin-based Therapies Product Liability Litigation
In re: Reglan/Metoclopromide
In re: Levaquin Products Liability Litigation
In re: Zimmer Nexgen Knee Implant Products Liability Litigation
In re: Fresenius Granuflo/NaturaLyte Dialysate Products Liability Litigation
In re: Propecia (Finasteride) Products Liability Litigation
In re: Transvaginal Mesh (In Re C. R. Bard, Inc., Pelvic Repair System Products Liability Litigation; In Re Ethicon, Inc., Pelvic Repair System Products Liability Litigation; In Re Boston Scientific, Inc., Pelvic Repair System Products Liability; In Re American Medical Systems, Pelvic Repair System Products Liability, and others)
In re: Fluoroquinolone Product Liability Litigation
In re: Depuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation
In re: Recalled Abbott Infant Formula Products Liability Litigation
Home Depot, U.S.A., Inc. v. Jackson
Webb v. Injured Workers Pharmacy, LLC

NOTABLE RECOVERIES

$4 Billion Settlement
In re: Prudential Insurance Co. Sales Practice Litigation

$3.2 Billion Settlement
In re: Tyco International Ltd., Securities Litigation

$1.14 Billion Settlement
In re: Nortel Networks Corp. Securities Litigation

$1 Billion-plus Trial Verdict
Vivendi Universal, S.A. Securities Litigation

$1 Billion Settlement
NASDAQ Market-Makers Antitrust Litigation

$1 Billion Settlement
W.R. Grace & Co.

$1 Billion-plus Settlement
Merck & Co., Inc. Securities Litigation

$775 Million Settlement
Washington Public Power Supply System Securities Litigation

$586 Million Settlement
In re: Initial Public Offering Securities Litigation

HIGHLIGHTED PRACTICE AREA: EMPLOYMENT & CIVIL RIGHTS

Milberg's Employment & Civil Rights attorneys focus on class actions and individual cases nationwide arising from discriminatory banking and housing practices, unpaid wages and sales commissions, improperly managed retirement benefits, workplace discrimination, and wrongful termination.

EXEMPLAR CASES

In re: Black Farmers Discrimination Litigation
U.S. District Court for the District of Columbia
Milberg attorneys were appointed Lead Counsel and secured a $1.25 billion settlement fund for black farmers who alleged the U.S. Department of Agriculture discriminated against them by denying farm loans.

Kingston v. IBM
U.S. District Court for the Western District of Washington
Milberg attorneys spearheaded a series of landmark cases against IBM alleging wrongful termination of software sales managers through a pattern of fraudulent conduct. Milberg secured an $11.1 million jury-verdict on behalf of Scott Kingston after the former IBM employee claimed the company wrongfully terminated him over his raised allegations of racial discrimination in the treatment of his subordinates.

Parry et al. v. Farmers Insurance Exchange, et al.
Superior Court of Los Angeles County, California
Milberg attorneys were named Class Counsel and secured a $75 million class-action settlement with Farmers Insurance on behalf of its agents alleging that Farmers Insurance misclassified its agents as independent contractors.

Meek v. SkyWest, Inc.
U.S. District Court for the Northern District of California
Milberg attorneys were Lead Counsel and secured a $4.2 million class action settlement against SkyWest Airlines for allegedly failing to provide proper rest and meal breaks to its employees.

Craig v. Rite Aid Corporation
U.S. District Court for the Middle District of Pennsylvania
This FLSA collective action and class action settled for $20.9 million.

Stillman v. Staples, Inc.

U.S. District Court for the District of New Jersey

This FLSA collective action had a Plaintiffs' trial verdict for $2.5 million and a national settlement approved for $42 million.

Lew v. Pizza Hut of Maryland, Inc.

U.S. District Court for the District of New Jersey

This FLSA collective action had a statewide settlement for managers-in-training and assistant managers, providing recompense of 100% of lost wages.

MATTHEW E. LEE
Senior Partner

Matthew E. Lee is a nationally recognized and highly regarded trial lawyer. For over 15 years, Mr. Lee has focused his practice on fighting for people in consumer class actions, employment/civil rights litigation, and other complex plaintiff's litigation. He serves as Chair of Milberg's Employment & Civil Rights Group.

After winning a $14 million judgment in a recent jury trial against IBM, the federal court judge found that "[t]his success reflects the quality of counsel who succeeded in proving claims of retaliation largely with circumstantial evidence." The jury's award was the largest ever in a retaliation, discrimination or wrongful termination case in the Western District of Washington (Seattle).

Mr. Lee has been recognized among the *Best Lawyers* in America (2021-2025), featured in Business North Carolina Magazine's *Legal Elite*, and is a decorated North Carolina *Super Lawyer* for several consecutive years, placing among the Top 25 attorneys in Raleigh (2024) and Top 100 in North Carolina (2024) overall.

Mr. Lee has served as lead counsel in class actions and other complex cases both in North Carolina and around the country.

NOTABLE CASES & LEADERSHIP ROLES

- Lead Counsel in two class actions against IBM arising from its commission's practices: *Comin v. International Business Machines Corp*. (N.D. Cal.) and *Engle v. International Business Machines, Corp.* (Supreme Court of New York)
- **April 2021:** Won a $14 million judgment on behalf of an IBM sales manager who was fired after reporting racial discrimination and wage theft – After an 8-day trial in federal court in Seattle, Washington, the jury returned a verdict in our clients' favor on all claims
- Co-Lead Interim Class Counsel in *Edwards v. CSX Transportation, Inc.*, a case involving devastating flood damages after Hurricanes Matthew and Florence estimated damages in excess of $250,000,000
- **October 2019:** Won the summary judgment battle with IBM in Swafford v. IBM in CA federal court – To the best of our knowledge, the resulting order denying summary judgment to IBM to the entire extent that the firm opposed it was the first of its kind around the country
- **October 2019:** Confidential settlement for $21 million in a defective condominium construction case

- **August 2018:** Won verdict and judgment we value at over $1 million, with hundreds of thousands more in punitive damages awarded by the jury, after a two-week jury trial in New Hanover County for an LLC member who'd been illegally ousted from the companies by his business partners
- **February 2013:** Won a $1.39 million verdict after a three-week jury trial in Madisonville, Kentucky on behalf of a church and a business against two coal companies for causing subsidence to their properties
- **June 2012:** Won a verdict and judgment of over $3 million after a three-week jury trial in Wilmington, North Carolina involving a contractor's defective construction of marine bulkhead
- **February 2011:** Won a verdict and judgment in excess of $3.5 million after a two-week jury trial involving the developer's deceptive advertising and shoddy construction of subdivision roads in the mountains of Western North Carolina

BAR ADMISSIONS

- U.S. District Court for the Eastern District of North Carolina, 2006
- U.S. District Court for the Middle District of North Carolina, 2010
- U.S. District Court for the Western District of North Carolina, 2009
- U.S. District Court for the District of Colorado, 2020
- U.S. District Court for the Middle District of Florida, 2014
- U.S. District Court for the Northern District of Texas, 2021
- Fourth Circuit Court of Appeals, 2017
- Ninth Circuit Court of Appeals, 2021
- North Carolina State Bar, 2006
- Florida State Bar, 2013

JEREMY R. WILLIAMS
Partner

Jeremy Williams is a Partner at Milberg and co-chairs the firm's Employment and Civil Rights practice group. Since joining the firm in 2014, Mr. Williams has prosecuted cases against some of the largest companies in the world and has recovered tens of millions of dollars for employees and consumers nationwide.

Specifically, he has successfully litigated numerous cases involving millions of dollars of unpaid sales commissions by tech and insurance companies, wrongful termination and discrimination actions on behalf of executives and software sales

representatives, class actions for the recovery of sales commissions, defective products, fraudulent pricing schemes, and retirement fund mismanagement, and other unlawful conduct against many Fortune 500 companies. Mr. Williams has also resolved lawsuits against major universities for violations of Title IX that led to the reinstatement of women's varsity sports teams.

Mr. Williams earned his law degree from Campbell University School of Law as part of a joint degree program that also allowed him to earn his M.B.A. from North Carolina State University. Prior to beginning this dual degree program, he attended Elon University where he earned his Bachelor of Science.

Mr. Williams's accomplishments have earned him recognition as a North Carolina Super Lawyer Rising Star from 2018-2025, as one of North Carolina's Legal Elite by Business North Carolina Magazine for 2022 and 2024, and by Best Lawyers in America for 2025.

Mr. Williams has served in leadership roles as the president of the Wake County Bar Association's Young Lawyers Division, on the Board of Directors for the Wake County Bar Association, as the CLE chair for the Products Liability, Class Actions, and Mass Torts section of the North Carolina Advocates for Justice, and on the Young Ambassadors Steering Committee for SAFEchild, a non-profit dedicated to eliminating child abuse in Wake County, North Carolina.

Mr. Williams currently serves as the chair of the Class Action, Products Liability, and Mass Torts section of the North Carolina Advocates for Justice. He has previously served as a member of the New Lawyers Division Professionalism Committee for the American Association for Justice and as an executive board member of the Triangle Chapter of the Elon University Alumni Association. He is a member of Public Justice, the American Association for Justice, the North Carolina Advocates for Justice, the Wake County Bar Association, and the North Carolina Bar Association.

NOTABLE CASES

- **December 2023:** Summary judgment obtained on behalf of a class of insurance agents and brokers for unpaid sales commissions in the amount of **$13,072,342.83** plus interest
- **April 2021:** Jury verdict in the amount of **$11,085,672** in a wrongful termination action against IBM following a two week trial in the Western District of Washington
- **October 2019:** Judgment obtained for clients in the amount of **$30,941,939.87** in a business dispute between commercial cattle farming operations
- **October 2019:** Confidential settlement for **$21 million** in a defective condominium construction case

- **August 2018:** Won verdict and judgment we value at over **$2 million**, after a two-week jury trial in New Hanover County for an LLC member who'd been illegally ousted from the companies by his business partners
- **February 2017:** Nationwide class action settlement we valued at over **$20** million involving composite decking material we alleged to be defective Numerous additional confidential settlements in cases involving wrongful termination, discrimination, defective construction, and unpaid sales commissions, including many for over $1,000,000

BAR ADMISSIONS

- North Carolina, 2014
- U.S. District Court for the Eastern District of North Carolina, 2015
- U.S. District Court for the Middle District of North Carolina, 2016
- U.S. District Court for the Western District of North Carolina, 2016
- U.S. Court of Appeals for the Fourth Circuit, 2016
- U.S. District Court for the District of Colorado, 2020
- U.S. District Court for the Northern District of Texas, 2021
- U.S. District Court for the Eastern District of Michigan, 2021
- U.S. Court of Appeals for the Ninth Circuit, 2021

MARK SIGMON
Partner

Mark Sigmon knows that big companies have powerful and skilled lawyers, but plaintiffs deserve the same— and that drives Mr. Sigmon to win.

A Milberg Partner, Mr. Sigmon focuses on a wide range of practice areas, from appellate to class action matters to employment, civil rights, and consumer protection litigation.

Mr. Sigmon graduated *summa cum laude* from Duke Law School, ranking first in his class. After law school, he clerked on the Fifth Circuit for two years. He started his career at a large defense firm and moved on to a business litigation boutique.

In 2016, Mr. Sigmon founded his own firm, focusing on plaintiffs' work of all types, particularly work on dispositive issues and appeals. That same year, he began working closely with Milberg's own Matt Lee, Dan Bryson, and others; after working with that team for so long, it only made sense that he join Milberg.

Mr. Sigmon has learned that each case is, at heart, a story. It is his passion to take complex facts and law and distill them down into a simple essence, allowing any

judge or jury to easily understand what that story is. He uses this pragmatic yet intellectual approach to work on appeals and dispositive motions, but also to work on all parts of a case, from the initial investigation through trial.

Mr. Sigmon has been certified by the North Carolina State Bar as a specialist in appellate practice. He has been recognized by Super Lawyers Magazine as a Super Lawyer and one of the Top 100 Lawyers of North Carolina, he is Martindale-Hubbell "AV Preeminent" Rated (the highest rating), and he is listed in Business North Carolina Magazine's Legal Elite.

BAR ADMISSIONS

- United States Supreme Court
- New York State Courts
- North Carolina State Courts
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Courts around the country

VINCE CARNEVALE
Partner

Vince Carnevale is a Partner at Milberg involved with the assessment and implementation of legal technology applications to improve firm operations.

Mr. Carnevale graduated from Robert Morris University in 1995 with a B.S.B.A. degree in Finance/Economics. He attended The University of Pittsburgh School of Law and graduated in 2001. After law school, Mr. Carnevale joined an AMLaw 200 defense firm, working on electronic discovery projects related to multiple global mass tort pharmaceutical litigation matters. He went on to work as an Investigative Analyst/Legal Project Manager for Crivella West Incorporated, an advanced analytics and investigational research company.

With over twenty years of experience managing all aspects of electronic discovery including collection, search, review and production, Mr. Carnevale has drafted various discovery pleadings including Document Preservation Orders, Legal Hold Notices, and Electronically Stored Information (ESI) Document Production Protocols. He has been the lead ESI project manager for some of the largest Mass Tort Class Action

Pharmaceutical litigations in the country and has additional experience with Bankruptcy, Antitrust, Securities, Commercial, and Employment Law matters.

Mr. Carnevale has attended numerous Federal Rule of Civil Procedure 26(f) Meet and Confer sessions to assist in the negotiation of ESI protocols and search criteria. He has also drafted declarations and affidavits regarding the quality and sufficiency of document productions and has attended status conferences in State and Federal court to support the related motions.

Mr. Carnevale was selected to become a member of The Sedona Conference WG1 Brainstorming Group on Multidistrict Litigation as well as Possession, Custody, or Control. He is also a member of the EDRM State Rules project team with a mission to organize and publish a cross reference of State eDiscovery Rules with the US Federal Rules of Civil Procedure.

Mr. Carnevale attained his Project Management Professional PMP® certification in March 2015. He is admitted to practice law in the State of Pennsylvania as well as the United States District Court for the Western District of Pennsylvania and is also a Registered Foreign Lawyer.

ARTHUR STOCK
Senior Partner

Arthur Stock is a Partner at Milberg with 30 years of litigation experience. Throughout his career, Mr. Stock has represented plaintiffs in antitrust, commercial, financial, securities, and consumer class actions.

Prior to joining Milberg, Mr. Stock was a principal litigator in numerous class actions, including: Merrill Lynch Inc. Securities Litigation (S.D.N.Y.), which resulted in a $475 million settlement on behalf of investors in Merrill Lynch securities; Lee v. Enterprise Leasing Co. (D. Nev.), in which class members recovered 80% of damages from allegedly illegal charges regarding Nevada airport car rentals; and Vasco v. PHRG, where class members recovered $5.2 million from a business that allegedly placed telemarketing calls to consumers without prior express consent.

Mr. Stock is a graduate of Yale University (B.A. with distinction in economics) and the Duke University School of Law (J.D. with high honors), where he served as Articles Editor of the Duke Law Journal. Before entering private practice, he served as a Law Clerk to the Honorable Jackson L. Kiser, United States District Court of the Western District of Virginia.

Mr. Stock is admitted to practice law in New Jersey, North Carolina, Pennsylvania, Tennessee, the Seventh and Ninth Circuit Courts of Appeal, United States Tax Court, and numerous federal district courts.

NOTABLE CASES

Mr. Stock's recent class action settlements include:

- *Parry v. Farmers Insurance*, Los Angeles County Super. Ct. (2022) – **$90 million** settlement for class of insurance agents for unreimbursed business expenses
- *Glascock v. Serco, Inc.*, (E.D. Va. 2021) – **$1.2 million** settlement for class of pension fund participants
- *White v. Members 1st Federal Credit Union* (M.D. Pa. 2020) – **$1.08 million** settlement for class of individuals charged bank overdraft fees

Mr. Stock's Representative Reported Decisions include:

- *Lussoro v. Ocean Financial Federal Credit Union*, 456 F. Supp. 3d 474 (E.D.N.Y. 2020) – sustaining Complaint in class action alleging unlawful overdraft charges by credit union
- *Richardson v. Verde Energy USA, Inc.*, 354 F.Supp.3d 639 (E.D. Pa. 2018), and 2016 WL 7380708 (E.D. Pa. Dec. 19, 2016) – sustaining Complaint and partially denying summary judgment in class action against alleged robocaller
- *Chapman v. Tristar Products, Inc.*, 2018 WL 4203533 (N.D. Ohio Sept. 14, 2018), and 2018 WL 3752228 (N.D. Ohio Aug. 3, 2018), and 2017 WL 1433259 (N.D. Ohio April 24, 2017) – granting class certification, approving extended warranty and coupon settlement, and denying intervention to non-party objecting to settlement, in consumer class action for allegedly defective pressure cookers
- *Vasco v. PHRG,* 2016 WL 5930876 (E.D. Pa. Oct. 12, 2016) – approving settlement and attorney fee award in class action against alleged robocaller
- *Lee v. Enterprise Leasing Co.-West*, 2015 WL 2345540 (D. Nev. May 15, 2015), and 300 F.R.D. 466 (D. Nev. 2014), and 30 F.Supp.3d 1002 (D. Nev. 2014) – granting plaintiffs' motions for summary judgment, class certification, and approval of settlement, in consumer class action alleging overcharges on airport car rentals

Mr. Stock's antitrust experience includes:

- *In re Interior Molded Doors Indirect Purchasers Antitrust Litigation* (E.D. Va.)
- *In re Modafinil Antitrust Litigation* (E.D. Pa.)
- *In re Skelaxin (Metaxalone) Antitrust Litigation* (E.D. Tenn.)

ROBERT WALLNER
Partner

Robert Wallner is a Partner at Milberg and has litigated complex securities, consumer, and antitrust class actions throughout the country.

Mr. Wallner has served on the editorial board of Securities Litigation Report, as a faculty member of the American Bar Association's First Annual National Institute on Securities Litigation and Arbitration, and as a member of the Federal Courts Committee of the Association of the Bar of the City of New York.

He has been recognized in Lawdragon's "100 Lawyers You Need to Know in Securities Litigation" and as a New York Super Lawyer from 2009-2023.

Mr. Wallner received his B.A. degree from the University of Pennsylvania in 1976 graduating magna cum laude. He attended New York University School of Law, earning his J.D. degree in 1979. He was elected to the law school's Order of the Coif and served as an editor of the NYU Law Review.

Mr. Wallner is admitted to practice in New York.

NOTABLE CASES

Mr. Wallner currently represents:

- Auto dealerships in a major antitrust MDL against the two leading providers of auto dealer management systems, CDK Global, LLC and The Reynolds & Reynolds Company, In re Dealer Management Systems Antitrust Litigation, MDL No. 2817 (N.D. Ill.)
- Plaintiffs in pharmaceutical antitrust litigation, Series 17-03-615, a designated series of MSP Recovery Claims, Series LLC. v. Express Scripts, Inc. (N.D. Ill.)
- A local government in litigation alleging violations of the Fair Housing Act, County of Cook v. Wells Fargo & Co. (N.D. Ill.)

Mr. Wallner has represented investors in:

- In re Merck & Co., Inc. Securities Litigation (D.N.J.) – resulted in a $1.062 billion recovery
- In re Initial Public Offering Securities Litigation (S.D.N.Y)
- In re CMS Energy Corporation Securities Litigation (E.D. Mich.)
- In re Deutsche Telekom AG Securities Litigation (S.D.N.Y.)
- Mr. Wallner has also represented plaintiffs in lawsuits arising out of the Madoff Ponzi scheme, including the court-appointed litigation trustee of two Madoff "feeder funds"

Mr. Wallner has successfully represented consumers in:

- In re Synthroid Marketing Litigation" (N.D. Ill.)
- Mercedes-Benz Tire Litigation (D.N.J.)

KATHARINE BATCHELOR
Associate

Katharine Batchelor is a Milberg Associate, cum laude graduate of Wake Forest University School of Law, and honors graduate of the University of North Carolina at Chapel Hill.

At Wake Forest, Ms. Batchelor served as managing editor of the *Wake Forest Law Review* and was the executive director of the Public Interest Law Organization. She was a member of the American Association for Justice Trial Team and the American Bar Association Moot Court Team. Her moot court team won the regional competition and advanced to the national finals. Additionally, as a clinic student, she argued a federal habeas corpus petition before the Fourth Circuit Court of Appeals and briefed a civil rights appeal before the Fourth Circuit. Her teams prevailed in both cases.

Prior to joining Milberg, Ms. Batchelor clerked for the Honorable Darren Jackson on the North Carolina Court of Appeals, drafting opinions in civil, criminal, and juvenile appeals. She has additional experience serving with the Regional Public Defender for Capital Cases in Texas and the Mecklenburg County Public Defender's office.

Since joining Milberg, Ms. Batchelor has focused her practice on employment and civil rights litigation, consumer class actions, and other complex plaintiff's litigation. She was recently recognized as a 2025 North Carolina *Super Lawyers* Rising Star. Ms. Batchelor also serves in leadership positions with several legal and community organizations including North Carolina Advocates for Justice and Musical Empowerment, a non-profit dedicated to music education and mentorship.

BAR ADMISSIONS

- North Carolina
- United States Supreme Court
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for the Eastern District of North Carolina
- U.S. District Court for the Middle District of North Carolina
- U.S. District Court for the Western District of North Carolina

LOCATIONS

PUERTO RICO
1311 Avenida Juan Ponce de León San Juan, Puerto Rico 00907

CALIFORNIA
280 South Beverly Drive, Penthouse
Beverly Hills, California 90212

402 West Broadway, Suite 1760
San Diego, California 92101

FLORIDA
201 Sevilla Avenue, Suite 200
Coral Gables, Florida 33134

ILLINOIS
227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606

LOUISIANA
5301 Canal Boulevard
New Orleans, Louisiana 70124

MICHIGAN
6905 Telegraph Road, Suite 115
Bloomfield Hills, Michigan 48301

NEW JERSEY
1 Bridge Plaza North, Suite 675
Fort Lee, New Jersey 07024

NEW YORK
100 Garden City Plaza, Suite 500
Garden City, New York 11530

405 E 50th Street
New York, New York 10022

NORTH CAROLINA
900 West Morgan Street
Raleigh, North Carolina 27603

SOUTH CAROLINA
825 Lowcountry Blvd, Suite 101
Mount Pleasant, South Carolina 29464

TENNESSEE
800 S. Gay Street, Suite 1100
Knoxville, Tennessee 37929

WASHINGTON
1420 Fifth Ave, Suite 2200
Seattle, Washington 98101

17410 133rd Avenue, Suite 301
Woodinville, Washington 98072

WASHINGTON, D.C.
5335 Wisconsin Avenue NW, Suite 440
Washington, D.C. 20015

NETHERLANDS

UNITED KINGDOM

EXHIBIT B

EXHIBIT B TO DECLARATION OF MATTHEW E. LEE

MILBERG'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]													Total Hours	Rate	Total Fees
NAME	1	3	4	5	6	7	8	9[2]	10	11	12	13	14			
Matthew Lee (Partner)	44.1	24.9	0	247.3	192.6	3.2	77.8	0	183.2	884.8	156.8	39.1	189.6	2,043.4	$1,141	$2,331,519.40
Jeremy Williams (Partner)	0	10.6	0	203.5	59.8	10.2	639.8	0	143.9	454.3	431	90.3	273.8	2,317.2	$948	$2,196,705.60
Katharine Batchelor (Associate)	6.8	7.9	46.3	15.8	4.1	40.1	119.5	40.5	252.1	656.8	514.9	45	52.6	1,802.4	$581	$1,034,826.00
Mark Sigmon (Partner)	0	0	0	0	22.9	0	1.5	0	0	0	315.6	0	0	340	$948	$322,320.00
Jeff Steen (Paralegal)	0	0	296.8	0	0	0	479.6	0	0.8	183	363	0	59.1	1,382.3	$258	$356,633.40
Sarah Spangenburg (Associate)	0	0	0	0	12	0	8.2	0	12.2	0	168.2	1	0	201.6	$381	$76,809.60
Vince Carnevale (Partner)	0	0	0	0	0	0	50.8	0	0	0	5.2	0	0	56	$1,057	$59,192.00
Jacob Morse (Associate)	0	0	0	0	0	0	3.9	0	34.2	0.2	6.7	0	0	45	$538	$24,210.00
Robert Wallner (Partner)	0	0	0	0	0	0	0	0	12.4	0	7.2	0.2	0.4	20.2	$1,141	$23,048.20
Rachel Cleveland (Summer Associate)	0	0	0	0	0	9.5	0	0	64.5	1.9	0	0	0	75.9	$239	$18,140.10
Arthur Stock (Partner)	0	0	0	0	0	8.4	0	0	4.6	0	4.9	0	0	17.9	$1,141	$20,423.90
Cathy Holmes (Paralegal)	0	0	5.5	0	0	0	0.3	0	0	18.8	0	0	0	24.6	$258	$6,346.80
Cori Caggiano (Summer Associate)	0	0	0	0	0	5	5.4	0	0	2.8	0	0	0	13.2	$239	$3,154.80

[1] Codes 2 and 18 are excluded from this chart as no Milberg attorneys or staff spent time on these categories during the relevant time period. Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.

[2] The billing rate for Category 9: Document Review is capped at $473/hour according to the Protocol for Time and Expense Reporting created by Co-Lead Counsel.

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Alex Honeycutt (Associate)	0	0	0	0	0	0	0	0	14.6	0	0	0	0	14.6	$581	$8,482.60
Kim Welch (Paralegal)	0	0	0	0	0	0	0	0	0	0	12	0	0	12	$258	$3,096.00
TOTALS	**50.9**	**43.4**	**348.6**	**466.6**	**291.4**	**76.4**	**1386.8**	**40.5**	**722.5**	**2202.6**	**1985.5**	**175.6**	**575.5**	**8,366.30**		**$6,484,908.40**

Key of billing category codes:

1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances
7. Legal Research	8. Discovery	9. Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

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EXHIBIT C

EXHIBIT C TO DECLARATION OF MATTHEW LEE

MILBERG'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

Expense Category Code		Amount
1	Litigation Fund Assessments	$140,000.00
2	Federal Express / Local Courier	$807.78
3	Postage Charges	
4	Facsimile Charges	
5	Long Distance Charges	
6	In-House Photocopying	$11.46
7	Outside Photocopying	$512.23
8	Hotels	$46,451.05
9	Meals	$13,298.03
10	Mileage	$195.00
11	Air Travel	$44,232.48
12	Deposition Costs	$151,099.63
13	Lexis/Westlaw/PACER	$80.43
14	Witness and Expert Expenses	$20,000.00
15	Court Fees	$1,400.00
16	Investigation Fees / Service Fees	$10,161.94
17	Hearing and Trial Transcripts	$654.96
18	Ground Transportation	$9,361.09
19	Miscellaneous (document management fees)	$25,370.90
TOTAL MILBERG EXPENSES		**$463,636.98**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF GREGORIO A. FRANCIS IN SUPPORT OF PLAINTIFFS' PETITION FOR ATTORNEYS' FEES FROM THE AMEC AND NEWPORT SETTLEMENTS

I, Gregorio A. Francis, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney licensed to practice law in the State of Florida. I am a shareholder partner at Osborne & Francis, PLLC in Orlando, Florida. I was appointed Co-Lead Counsel by the Court on August 4, 2022 (ECF No. 68) and my firm was one of the firms appointed as Class Counsel for purposes of the AME Settlement and the Newport Settlement by this Court in its March 24, 2025 Order preliminarily approving the proposed settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF No. 775.)

2. I am submitting this declaration in support of the Plaintiffs' petition for attorneys' fees and expenses and service awards for the appointed Class Representatives in connection with the AME and Newport Settlements.

3. I have supervised all Osborne & Francis, PLLC's attorneys and staff responsible for this matter for the entirety of the litigation thus far. Osborne & Francis' firm resume, including a description of our firm and the attorneys who assisted on this case, is attached hereto as **Exhibit A**.

4. Since being consolidated as an MDL in June of 2022, I have assisted my Co-Lead Counsel and the Plaintiffs' Steering Committee in litigating various aspects of the case as described in my Co-Lead Counsel Matthew Lee's declaration.

5. Adhering to the Protocol for Time and Expense Reporting established by my Co-Lead Counsel and myself at the onset of this MDL, my firm submitted our contemporaneous time and expense records to my Co-Lead monthly. Osborne & Francis' attorneys and staff categorized their time spent on this litigation into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

6. In connection with preparing the monthly time and expense reports submitted to my Co-Lead Counsel and with preparing this declaration, I have reviewed Osborne & Francis' time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by

Osborne & Francis on this litigation from inception through March 31, 2025 is 3,815.2. Based on our current billing rates, Osborne & Francis' total lodestar for this litigation from inception through March 31, 2025 is $3,834,639.00. A summary breakdown of Osborne & Francis' lodestar is provided in **Exhibit B**.

7. The hourly rates shown in **Exhibit B** are Osborne & Francis' standing billing rates for contingent cases and are consistent with hourly rates submitted by my firm in other class action or complex litigation.

8. Regarding expenses, at the outset of the litigation the Plaintiffs' Steering Committee established a Litigation Fund to facilitate the sharing of certain costs, such as deposition transcripts, document repository services, expert witness and consultant fees, and mediation fees. My firm has contributed to this Litigation Fund on three occasions for a total of $140,000.00. **Exhibit C** reflects Osborne& Francis' contributions to the Litigation Fund.

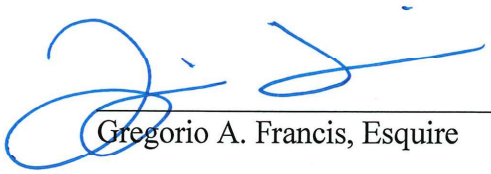
9. Additionally, my firm has incurred a number of costs related to such activities as travel for hearings or status conferences; travel for depositions; printing and copying, etc. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**.

10. After my review and submission to my Co-Lead Counsel, the total amount of expenses incurred from the inception of this litigation through March 31, 2025 for which Osborne & Francis is seeking reimbursement is $240,041.54.

11. To summarize, for purposes of this petition for attorneys' fees and expenses, the total lodestar for Osborne & Francis is $3,834,639.00 and the total expenses for which Osborne & Francis is presently seeking reimbursement is $240,041.54 I believe that these totals reflect reasonable and

necessary time spent and expenses incurred while litigating on behalf of Plaintiffs and the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this the 7th day of May, 2025 at Orlando, Florida.



Gregorio A. Francis, Esquire

EXHIBIT A

EXHIBIT A TO DECLARATION OF OSBORNE & FRANCIS

Osborne & Francis, PLLC is a nationally recognized civil litigation firm with a proven track record in complex, high-stakes litigation, including mass torts, class actions, and product liability. The firm's attorneys have consistently demonstrated superior legal ability, commitment to justice, and devotion to the welfare of the community, the state, and the legal profession. Osborne & Francis has served in leadership roles in major Multi-District Litigations ("MDLs"), including appointments as Liaison Counsel to the United States District Court for the Southern District of Florida and as members of Plaintiffs' Steering and Discovery Committees. The firm's leadership in such proceedings has involved coordination of national discovery, expert development, and class-wide litigation strategy. Osborne & Francis has also successfully obtained class certification in numerous Florida state court actions, further demonstrating its competence and dedication to advancing the interests of class members nationwide.

Gregorio Francis, Esq. is a founding partner of Osborne & Francis and a nationally recognized trial attorney. Mr. Francis served as lead counsel in the historic In Re: Black Farmers class action, which resulted in a landmark $1.25 billion settlement—benefiting nearly 20,000 Black farmers and marking the largest civil rights settlement in U.S. history. For his work he was awarded the Vince Monroe Townsend award from the National Bar Association. Further, Mr. Francis has been entered into the Congressional record by the Honorable Fredrica Wilson as a result of his work in civil rights. His decades-long legal career includes extensive experience in medical malpractice, catastrophic injury, civil rights, and police misconduct litigation. Mr. Francis previously served as a shareholder and managing partner at Morgan & Morgan, where he opened and led offices across multiple states. In addition to his courtroom success, he has held leadership roles in the National Bar Association, the Ninth Circuit Judicial Nominating Commission, is a member of ABOTA and has served as legal counsel to the Lay Ministry of the African Methodist Episcopal Church. Recently, Mr. Francis was named the distinguished alumnus by the University of Florida Fred Levin College of Law for 2025. He continues to serve on the Board of Trustees for Bethune-Cookman University and as a community leader through numerous philanthropic and civic initiatives.

Joseph A. Osborne, Esq. is a co-founder of Osborne & Francis and brings over 30 years of experience in complex civil litigation. Mr. Osborne has served on the Plaintiffs' Steering Committees in more than a dozen federal MDLs, including high-profile pharmaceutical and medical device litigations such as In Re: C.R. Bard, Inc.

Pelvic Repair System, Ethicon Pelvic Mesh, Yaz/Yasmin, Vioxx, Zimmer NexGen Knee, and DePuy Hip Implants. He has also served on MDL Discovery Committees and played critical roles in structuring national case strategies. Mr. Osborne has successfully obtained class certification in multiple Florida state court cases involving claims against major property management companies, helping to recover substantial relief for aggrieved consumers and tenants. He is a member of the Multi-Million Dollar Advocates Forum, a finalist for South Florida Daily Business Review's Lawyer of the Year, and limits his practice exclusively to complex mass tort and class action litigation.

Ami Romanelli, Esq. is a partner at Osborne & Francis and has dedicated more than 15 years to litigating complex product liability, medical device, and pharmaceutical actions. Ms. Romanelli has served as counsel of record and held committee-level roles in multiple federal MDLs involving major manufacturers such as Johnson & Johnson, Pfizer, Bayer, Merck, and Boston Scientific. Her litigation experience includes matters such as Zimmer M/L Taper Hip Prosthesis, Ethicon Pelvic Mesh, Boston Scientific Pelvic Mesh, DePuy Pinnacle Hip, Stryker, and Yaz/Yasmin. She brings specialized knowledge in regulatory compliance, consumer fraud, design defect, and failure-to-warn claims, and has contributed to successful outcomes in both federal and state venues. Ms. Romanelli's meticulous legal research, drafting, and case coordination have been instrumental in advancing claims for hundreds of plaintiffs across the country.

EXHIBIT B

EXHIBIT B TO DECLARATION OF OSBORNE & FRANCIS

OSBORNE & FRANCIS'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]															Total Hours	Rate	Total Fees
NAME	1	2	3	4	5	6	7	8	9[2]	10	11	12	13	14	18			
Francis, Greg (Partner)	39.2	20.2	24.9	0	246.8	143	2.2	294.6	0	167.4	667.2	134.7	12.6	257	104.1	2,113.9	$1,200	$2,536,680.00
Romanelli, Ami (Partner)	0	10.1	0		9.4	32.3	0	310.6	0	140.2	769.4	102.7	8.3	0	264.6	1,647.6	$750	$1,235,700.00
Osborne, Joe (Partner)	0.5	0	0	0.2	15	24.7	0	0	3	3.5	0	2.8	0	0	4	53.7	$1,200	$62,259.00
TOTALS	**39.7**	**30.3**	**24.9**	**0.2**	**271.2**	**200**	**2.2**	**605.2**	**3**	**311.1**	**1,436.6**	**237.4**	**20.9**	**257**	**372.7**	**3,815.2**		**$3,834,639.00**

Key of billing category codes:

1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances
7. Legal Research	8. Discovery	9. Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

[1] Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.
[2] The billing rate for Category 9: Document Review is capped at $473/hour according to the Protocol for Time and Expense Reporting created by Co-Lead Counsel.

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EXHIBIT C

EXHIBIT C TO DECLARATION OF OSBORNE & FRANCIS

OSBORNE & FRANCIS'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

	Expense Category Code	Amount
1	Litigation Fund Assessments	$140,000.00
2	Federal Express / Local Courier	$937.19
3	Postage Charges	
4	Facsimile Charges	
5	Long Distance Charges	
6	In-House Photocopying	$29,221.90
7	Outside Photocopying	
8	Hotels	$18,599.32
9	Meals	$3,392.87
10	Mileage	
11	Air Travel	$27,407.85
12	Deposition Costs	$1,218.50
13	Lexis/Westlaw/PACER	$5,244.39
14	Witness and Expert Expenses	
15	Court Fees	$150.00
16	Investigation Fees / Service Fees	
17	Hearing and Trial Transcripts	
18	Ground Transportation	$7,076.03
19	Miscellaneous	$6,793.49
	TOTAL O&F EXPENSES	**$240,041.54**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF J. GERARD STRANCH, IV IN SUPPORT OF PLAINTIFFS' PETITION FOR ATTORNEYS' FEES FROM THE AMEC AND NEWPORT SETTLEMENTS

I, J. GERARD STRANCH, IV, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney licensed to practice law in the State of Tennessee. I am the managing partner at Stranch, Jennings & Garvey, PLLC in Nashville, TN. I was appointed to the Plaintiffs' Steering Committee as Liaison Counsel by the Court on August 4, 2022 (ECF No. 68) and my firm was one of the firms appointed as Class Counsel for purposes of the AME Settlement and the Newport Settlement by this Court in its March 24, 2025 Order preliminarily approving the proposed settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF No. 775.)

2. I am submitting this declaration in support of Plaintiffs' petition for attorneys' fees and expenses and service awards for the appointed Class Representatives in connection with the AME and Newport Settlements.

3. I have supervised all Stranch, Jennings & Garvey, PLLC ("SJG") attorneys and staff responsible for this matter for the entirety of the litigation thus far. SJG's firm resume,

including a description of our firm and the attorneys who assisted on this case, is attached hereto as **Exhibit A**.

4. Since being consolidated as an MDL in June of 2022, I have assisted Co-Lead Counsel and the rest of the Plaintiffs' Steering Committee in litigating various aspects of the case as described in Co-Lead Counsel Matthew Lee's declaration.

5. Adhering to the Protocol for Time and Expense Reporting established by Co-Lead Counsel at the onset of this MDL, my firm submitted our contemporaneous time and expense records to Co-Lead monthly. SJG's attorneys and staff categorized their time spent on this litigation into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

6. In connection with preparing the monthly time and expense reports submitted to Co-Lead Counsel and with preparing this declaration, I have reviewed SJG's time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was

to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by SJG on this litigation from inception through March 31, 2025 is 1,243.4. Based on our current billing rates, SJG's total lodestar for this litigation from inception through March 31, 2025 is $1,197,068.60. A summary breakdown of SJG's lodestar is provided in **Exhibit B**.

7. The hourly rates shown in **Exhibit B** are SJG's standing billing rates for contingent cases and are consistent with hourly rates submitted by my firm in other class action or complex litigation, and are the same rates charged for hourly clients. For personnel who are no longer employed by SJG, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment at SJG.

8. Regarding expenses, at the outset of the litigation the Plaintiffs' Steering Committee established a Litigation Fund to facilitate the sharing of certain costs, such as deposition transcripts, document repository services, expert witness and consultant fees, and mediation fees. My firm has contributed to this Litigation Fund on three occasions for a total of $70,000.00. **Exhibit C** reflects SJG's contributions to the Litigation Fund.

9. Additionally, my firm has incurred a number of costs related to such activities as Federal Express charges, Postage charges, hotels, meals and air travel charges, deposition costs, witness and expert fee service charges, service of process charges, ground transportation and mediation fee charges. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**.

10. After my review and submission to Co-Lead Counsel, the total amount of expenses incurred from the inception of this litigation through March 31, 2025 for which SJG is seeking

reimbursement is $88,282.32.

11. To summarize, for purposes of this petition for attorneys' fees and expenses, the total lodestar for SJG is $1,197,068.60 and the total expenses for which SJG is presently seeking reimbursement is $88,282.32. I believe that these totals reflect reasonable and necessary time spent and expenses incurred while litigating on behalf of Plaintiffs and the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this the 7th day of May, 2025 at Nashville, TN.

/s/ J. Gerard Stranch, IV

J. GERARD STRANCH, IV

EXHIBIT A

SJG

STRANCH, JENNINGS & GARVEY
PLLC

The award-winning attorneys of Stranch, Jennings & Garvey, PLLC (SJ&G), have recovered more than $50 billion for clients, from high-profile cases to single plaintiffs who have suffered harm or unfair treatment.

SJ&G's roots go back to 1952 when Cecil Branstetter founded Branstetter, Stranch & Jennings, PLLC (BS&J), his own law firm in Nashville. For more than seven decades, our attorneys have advocated for society's under-represented voices, consumer rights, labor unions and victims of discrimination, a legacy that continues today as we work to ensure access to justice for our clients.

PRACTICE AREAS

- Appellate Practice
- Bank Fees
- Business Litigation
- Car Crashes
- Civil Litigation
- Civil Rights
- Class Action
- Complex Litigation
- Condemnation/Municipal Property Disputes
- Constitutional Law
- Consumer Protection
- Election Law
- Employment & Discrimination Law
- Environmental Law
- ERISA Trust Funds
- Labor Law
- Labor Unions
- Mass Tort
- Medical Malpractice
- Necrotizing Enterocolitis (NEC)
- Nursing Home Abuse & Neglect
- Opioid Litigation
- Personal Injury
- Privacy Litigation
- Product Liability
- Trucking Wrecks
- Wage & Hour Disputes
- Worker Adjustment & Retraining Notification

REPRESENTATIVE CASES

SJ&G attorneys have represented plaintiffs in a substantial number of complex cases both in state and federal courts throughout the nation:

- as lead trial attorney in the Sullivan Baby Doe case (originally filed as Staubus v. Purdue) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a $35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date;
- personally appointed to the steering committee of the In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, resulting in approximately $17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever;
- the executive committee In re: Dahl v. Bain Capital Partners (anti-trust), resulting in a $590.5 million settlement;
- appointed mediator by the circuit court in the case of the City of St. Louis v. National Football League and the Los Angeles Rams, having successfully negotiated a $790 million settlement for the plaintiffs;
- lead plaintiff in Sherwood v. Microsoft, which set the standard for indirect antitrust actions in Tennessee and ultimately resolved for a value of $64 million;
- litigated Qwest Savings and Investment Plan ERISA litigation, resulting in a $57.5 million total payout to class members;
- plaintiff's co-counsel in the Paxil litigation of Orrick v. GlaxoSmithKline;
- represented a class of consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement. Montanez v. Gerber Childrenswear, LLC (M.D. Cal.); and
- represented multiple Taft-Hartley Trust Funds as amici in a case setting Ninth Circuit precedent on liability of owners as ERISA fiduciaries for unpaid fringe benefit contributions.

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St. Louis, MO 63101
Phone: 314.390.6750

Las Vegas
3100 W. Charleston Boulevard
Suite 208
Las Vegas, NV 89102
Phone: 725.235.9750

stranchlaw.com

J. Gerard Stranch IV

FOUNDING AND MANAGING MEMBER

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Gerard Stranch is the managing member at Stranch, Jennings & Garvey, PLLC (SJ&G). A third-generation trial lawyer, he leads the firm's class action and mass tort practice groups. His additional areas of practice include bank fees, privacy litigation, wage and hour disputes, worker adjustment and retraining notification, personal injury and trucking wrecks.

Mr. Stranch has served as lead or co-lead counsel for the firm in numerous cases, including:

- lead trial attorney in the Sullivan Baby Doe case (originally filed as Staubus v. Purdue) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a $35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date;
- personally appointed to the steering committee of the In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, resulting in approximately $17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever;
- the executive committee In re: Dahl v. Bain Capital Partners (anti-trust), resulting in a $590.5 million settlement;
- personally appointed to the steering committee In re: New England Compounding Pharmacy, Inc., resulting in more than $230 million in settlements; and
- appointed as co-lead counsel In re: Alpha Corp. Securities litigation, resulting in a $161 million recovery for the class.

A 2000 graduate of Emory University, Mr. Stranch received his J.D. in 2003 from Vanderbilt University Law School, where he teaches as an adjunct professor about the practice of civil litigation. He led the opioid litigation team in the Sullivan Baby Doe suit, for which the team won the 2022 Tennessee Trial Lawyer of the Year award. Mr. Stranch has been listed as one of the Top 40 Under 40 by the National Trial Lawyers Association and as a Mid-South Rising Star by Super Lawyers magazine.

PRACTICE AREAS

- Class Action
- Mass Tort
- Bank Fees
- Privacy Litigation
- Wage and Hour Disputes
- Worker Adjustment and Retraining Notification
- Personal Injury
- Trucking Wrecks

EDUCATION

- Vanderbilt University Law School (J.D., 2003)
- Emory University (B.A., 2000)

BAR ADMISSIONS

- Tennessee
- U.S. District Court Western District of Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Eastern District of Tennessee
- U.S. 6th Circuit Court of Appeals
- U.S. 8th Circuit Court of Appeals
- U.S. 9th Circuit Court of Appeals
- U.S. District Court District of Colorado

PROFESSIONAL HONORS & ACTIVITIES

Awards

- 2024 Steven J. Sharp Public Service Award (American Association for Justice)
- 2024 Leonard Weinglass in Defense of Civil Liberties Award (American Association for Justice)
- Super Lawyers Mid-South Rising Star
- Tennessee Trial Lawyer of the Year
- Top 40 Under 40, National Trial Lawyers Association

Memberships

- Public Justice
- Nashville Bar Association
- Tennessee Bar Association
- American Association for Justice
- Tennessee Association for Justice
- Lawyer's Coordinating Committee of the AFL-CIO
- General Counsel Tennessee AFL-CIO and Federal Appointment, Coordinator
- General Counsel Tennessee Democratic Party
- National Trial Lawyer
- Board of Directors, Cumberland River Compact
- Class Action Trial Lawyers Association, Board Member
- Tennessee Trial Lawyers Association

PRESENTATIONS

- Mr. Stranch regularly speaks at conferences on issues ranging from in-depth reviews of specific cases to developments in the law, including in mass torts, class actions and voting rights.
- Mr. Stranch is one of the founding members of the Cambridge Forum on Plaintiff's Mass Tort Litigation and regularly presents at the forum.

LANGUAGES

- English
- German

SJG
STRANCH, JENNINGS & GARVEY PLLC

James G. Stranch III

FOUNDING MEMBER

Jim Stranch is the senior member in the complex litigation group, which he helped start on behalf of the firm. He has served as lead counsel in virtually every large complex and other class action in which the firm has served as lead plaintiff.

Mr. Stranch and his wife, Judge Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals, were early pioneers of 401(k) ERISA litigation and jointly litigated numerous groundbreaking cases.

One of Mr. Stranch's first hard-earned victories came in 1979 when, along with firm founder Cecil Branstetter, he won a jury verdict in a case against Frosty Morn Meats in Montgomery County. The bankrupt company was found by a jury to have been grossly negligent in its mishandling of more than 500 employees' Christmas monies. The jury returned a nearly $473,000 judgment against the company's board of directors, and the case helped solidify the firm's reputation in Tennessee as one that fights for workers' interests.

In addition to having founded the firm's class action practice, Mr. Stranch also focuses on Labor and Employment Law, and brings more than four decades of experience in representing labor organizations and individual workers throughout Tennessee and the South. Mr. Stranch also has extensive expertise in matters arising under the National Labor Relations Act, ERISA, Title VII, and wage and hours laws such as the FLSA.

Mr. Stranch has spent his career contributing to its legacy of supporting labor unions, shareholders, small businesses and others. Mentored by the late Cecil Branstetter, Mr. Stranch also strives to mentor the firm's younger attorneys.

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PRACTICE AREAS

- Class Action and Complex Litigation
- Labor and Employment Law
- Personal Injury
- Consumer Protection
- ERISA Trust Funds

EDUCATION

- University of Tennessee College of Law (J.D., 1973)
- University of Tennessee (B.S., 1969)

EXPERIENCE

- Tennessee consumer protection and antitrust action against Microsoft, which led to a $64 million recovery to the consumer class, including a $30 million cy pres to Tennessee schools.
- Qwest Savings and Investment Plan ERISA litigation, which resulted in a $57.5 million total payout to class members.
- Nortel Networks Corp. ERISA litigation, which was resolved with a $21.5 million settlement
- Securities litigation on behalf of the State of Tennessee Consolidated Retirement System against Worldcom, which led to a $7 million recovery.
- Shareholder derivative action involving Dollar General Corporation, which resulted in a $31.5 million recovery.
- ERISA/401(k) litigations on behalf of employees and pensioners of Qwest Communications, Inc. ($57.5 million total value recovery), Xcel Energy Inc. ($8.6 million recovery), Providian Financial, Inc. ($8.6 million) and Nortel, Inc. ($21.5 million recovery).

BAR ADMISSIONS

- Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Eastern District of Tennessee
- U.S. District Court Western District of Tennessee
- U.S. District Court, Colorado
- U.S. Tax Court
- U.S. Supreme Court
- U.S. 6th Circuit Court of Appeals
- U.S. 8th Circuit Court of Appeals
- U.S. 9th Circuit Court of Appeals

PROFESSIONAL HONORS & ACTIVITIES

Awards

- AV-Rated by Martindale Hubbell
- Best Lawyers in America – Labor and Employment Law
- Mid-South Super Lawyers Edition (2014)
- Super Lawyers (2007 – 2020)

Memberships

- Tennessee State Ethics Commission, Member and Former Chairman
- Tennessee Appellate Court Nominating Committee (Secretary, 1985 – 1991)
- AFL-CIO Lawyer's Coordinating Advisory Committee (1980 – present)
- Nashville Bar Association (1973 – present)
- Tennessee Bar Association (Chairman, Labor Law Section, 1991 – 1992; Member, 1973 – present)
- American Bar Association (1973 – present)
- American Association for Justice (1974 – present)
- Tennessee Association for Justice (1974 – present)
- Phi Delta Phi

COMMUNITY INVOLVEMENT

- Chairman, Tennessee Bureau of Ethics
- Fellow, Nashville Bar Foundation
- Former Secretary, Tennessee Appellate Court Nominating Committee
- Former Member, AFL-CIO Lawyers Coordinating Advisory Committee
- Former Chairman, Tennessee Bar Association's Labor Law Section

SJG
STRANCH, JENNINGS & GARVEY PLLC

R. Jan Jennings

FOUNDING MEMBER

In the initial years of his career, Jan Jennings represented labor organizations devoted to protecting the rights of employees. During the past 20 years, he has concentrated on providing services to health and pension funds that provide benefits to construction workers. He has also provided personal representation to political and labor leaders throughout the South.

After obtaining an M.B.A. degree, Mr. Jennings worked in a series of managerial positions at General Electric Company, where he was responsible for union and employee relations. Upon graduation from law school, he practiced in Atlanta, Georgia, for a number of years before relocating his practice to Nashville. He joined the firm in 1977.

A native of Johnson City, Tennessee, Mr. Jennings earned his J.D. from the University of Tennessee College of Law, where he served as editor of the Tennessee Law Review. He received his B.S. and M.B.A. degrees from East Tennessee State University.

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LOCATION
The Freedom Center
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PRACTICE AREAS

- ERISA Trust Funds
- Labor Unions

EDUCATION

- University of Tennessee College of Law (J.D., 1974)
  - Editor, *Tennessee Law Review*
- East Tennessee State University, (M.B.A., 1966)
- East Tennessee State University (B.S., 1964)

EXPERIENCE

Mr. Jennings provides ongoing representation to health and pension funds in connection with litigation concerning:

- Collection of employer delinquencies
- Denial of benefits
- Claims for subrogation/reimbursement to health funds from participants
- Breach of fiduciary duty claims
- Claims against service providers due to errors or omissions, prohibited transactions and breach of fiduciary liability
- Claims against hospitals, drug companies and other providers for excessive claims or costs
- Withdrawal liability
- Federal and state securities violations
- Consumer fraud

This representation of multiemployer funds involves the wide range of subjects encompassed by ERISA, Taft-Hartley, the IRC, HIPAA and PPACA.

BAR ADMISSIONS

- Tennessee
- U.S. District Court Eastern District of Tennessee
- Georgia
- U.S. 5th Circuit Court of Appeals
- U.S. 6th Circuit Court of Appeals
- U.S. 11th Circuit Court of Appeals
- U.S. Court of Appeals Federal Circuit
- U.S. Supreme Court
- U.S. District Court Middle District of Tennessee
- U.S. District Court Western District of Tennessee

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Best Lawyers in America – Labor and Employment Law (2004 – present)
- AV-Rated by Martindale Hubbell (1975 – present)

Memberships

- Tennessee Bar Association
- State Bar of Georgia

COMMUNITY INVOLVEMENT

- Cecil D. Branstetter Scholarship Fund
- Laborers' Care Foundation

SJG
STRANCH, JENNINGS & GARVEY PLLC

Hon. John (Jack) Garvey

FOUNDING MEMBER

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LOCATION
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St. Louis, MO 63101

Judge (ret.) Garvey has been practicing law for 35 years in St. Louis. He began his career in private practice, then moved to the city's prosecuting attorney office, where he tried 23 cases to verdict. He was then elected to the St. Louis Board of Aldermen, where he served for four years while also practicing as a trial attorney before joining a trial law firm. While in private practice, he tried 50 cases to verdict.

In 1998, Judge Garvey was appointed to the associate circuit court bench, where he served five years until he was elevated to a circuit court position and served for an additional 13 years. During his time on the bench, he presided over 200 jury trials, and served as the chief criminal judge, presiding juvenile court judge and assistant presiding judge, as well as the chief judge of the 22nd Judicial Circuit mass tort docket.

Following his return to private practice in 2015, Judge Garvey has been involved as plaintiff's co-counsel in the Paxil litigation of Orrick v. GlaxoSmithKline, St. Louis City Circuit #1322-CC00079; co-lead counsel in the opioids litigation of Jefferson County v. Williams, #20JE-CC00029; and local counsel in Roundup cases.

In addition to his litigation work, he has been appointed several times as a special master on discovery matters by St. Louis city and county courts. In addition, Judge Garvey was appointed mediator by the circuit court in the case of the City of St. Louis v. National Football League and the Los Angeles Rams, having successfully negotiated a $790 million settlement for the plaintiffs in 2022.

Judge Garvey obtained his B.A. in urban affairs in 1983 from St. Louis University, and earned his J.D. in 1986 from Rutgers University School of Law. He is an adjunct professor of law at Washington University School of Law and St. Louis University School of Law.

Judge Garvey resides in South St. Louis with his wife, Kathy, a retired registered nurse. They have four children who also live in St. Louis. He enjoys running, reading and grilling.

PRACTICE AREAS

- Class Action
- Mass Tort
- Personal Injury
- Product Liability

EDUCATION

- Rutgers University School of Law (J.D., 1986)
- St. Louis University (B.A., 1983)
  - Captain of the School's Rugby Team (1980-1983)

BAR ADMISSIONS

- Missouri
- U.S. District Court Eastern District of Missouri
- U.S. District Court Western District of Missouri
- U.S. District Court Southern District of Illinois

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Adjunct Faculty Member of the Year, St. Louis University Law School (2006)
- Person of the Year, Missouri Coalition Against Domestic Violence (2000)
- Pro Bono Legal Professional of the Year, St. Louis University Civil Justice Clinic (2007)
- Honored at the 2023 Missouri Lawyers Association for his role In re: National Prescription Opiate Litigation settlement, which won first place in the Top Settlements category

Memberships

- Bar Association of Metropolitan St. Louis

COMMUNITY INVOLVEMENT

- Adjunct Professor of Law, Washington University Law School – Evidence and Trial Advocacy (2001 – 2015)
- Adjunct Professor of Law, St. Louis University – Trial Advocacy (2005 – 2015)
- President of the board of directors, St. Louis Public Library (2004 – 2008)
- Alderman, 14th Ward of the City of St. Louis (1991 – 1995)

PRESENTATIONS

- "Evidence and Managing Trials," Judicial College of Missouri, August and October 2023
- "Trends in Mass Torts," HarrisMartin MDL Conference: The Current Mass Tort Landscape (March 2022)
- "Opioid Case Against the Pharmacies," HarrisMartin MDL Conference: Critical Developments in Mass Torts, MDLs, and Game-Changing Jurisprudence (May 2019)

SJG
STRANCH, JENNINGS & GARVEY PLLC

Michael G. Stewart

FOUNDING MEMBER

Mike Stewart is a member of the firm's complex litigation practice, representing citizens who have suffered injuries or lost money because of the actions of powerful interests. He has litigated cases that have recovered millions of dollars for defrauded investors, persons injured by defective products and consumers cheated by improper sales practices. He writes and speaks on a variety of legal and public interest topics.

A former member of the Tennessee General Assembly, Mr. Stewart aggressively fought for citizens, at one point calling to attention the state's inadequate gun background check laws by offering an assault rifle for sale at a sidewalk lemonade stand.

Mr. Stewart was elected unanimously by his fellow Democratic members to serve as their Caucus Chairman during the 109th, 110th and 111th General Assemblies. During his tenure, Democrats regained seats held by Republicans in all three of Tennessee's Grand Divisions – West, Middle and East Tennessee.

Before attending law school, Mr. Stewart served as an officer in the United States Army, with service in the Korean Demilitarized Zone and in Operation Desert Storm.

Mr. Stewart and his wife, Ruth, have three children, Will, Joseph and Eve. Ruth is a physician and an Associate Dean at Meharry Medical College. They live in East Nashville.

PHONE
615.254.8801

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LOCATION
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223 Rosa L. Parks Avenue
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PRACTICE AREAS

- Class Actions and Complex Litigation
- Civil Litigation

EDUCATION

- University of Tennessee College of Law (J.D., *cum laude*, 1994)
  - Student Materials Editor, *Tennessee Law Review*
  - National Moot Court Team
  - Vinson & Elkins Award for Excellence in Moot Court Brief Writing
- University of Pennsylvania (B.A., 1987)

EXPERIENCE

- Represented a class of shareholders in antitrust litigation against many of the nation's largest private equity firms in a suit alleging collusion on large buyout deals. Total settlements exceeded half-a-billion dollars. Dahl v. Bain Capital Partners (D. Mass).
- Represented a class of consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement. Montanez v. Gerber Childrenswear, LLC (M.D. Cal.).
- Represented a consumer seriously injured by emissions from a residential air cleaner, resulting in a significant settlement. Bearden v. Honeywell International, Inc. (M.D. Tenn.).
- Represented a class of shareholders alleging damages from inaccurate financial statements issued by a manufacturer of cellular phone cameras, resulting in a multi-million-dollar settlement. Omnivision Technologies, Inc. Litigation (N.D. Cal.).

BAR ADMISSIONS

- Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Western District of Tennessee
- U.S. 6th Circuit Court of Appeals

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Best Lawyers in America (2008)
- National Trial Lawyers, Top 100 (2019)
- U.S. Eighth Army Distinguished Leader Award

Memberships

- American Bar Association
- Tennessee Bar Association
- Nashville Bar Association
- American Association of Justice

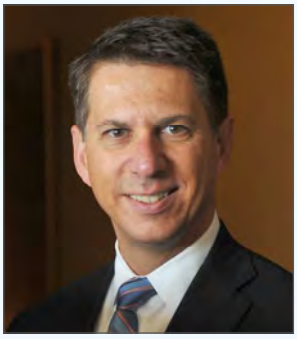
PRESENTATIONS & PUBLISHED WORKS

- Tennessee Bar Association Litigation Forum CLE – "Legislative Update"
- Nashville Bar Association CLE, "Deposition Ethics: Strategies for Taking and Defending Depositions Without Running Afoul of the Model Rules of Professional Conduct"
- "Paul Krugman Unwittingly Fulfills Fiscal Fantasies for Republicans," The Hill (Nov. 18, 2017)
- "Memo to Democratic Donors: the Path to Power Passes Through the States," The Hill (Dec. 22, 2016)

COMMUNITY INVOLVEMENT

- Chairman, Tennessee House Democratic Caucus
- Campaign Treasurer, Mayor Bill Purcell
- Past Member, Metro Nashville Emergency Communications Board
- Past President, Lockeland Springs Neighborhood Association
- Member, East End United Methodist Church

SJG
STRANCH, JENNINGS & GARVEY PLLC



R. Christopher Gilreath

MEMBER

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EMAIL
cgilreath@stranchlaw.com

LOCATION
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Christopher Gilreath co-leads the personal injury practice group at Stranch, Jennings & Garvey. He handles catastrophic injury and death cases, including trucking wrecks, medical malpractice, defective products and other serious injury situations. He has also represented individuals in select multi-jurisdiction cases.

Mr. Gilreath has served as lead or co-counsel in numerous cases, including:

- *Knowles et al v. State of Tennessee.* Represented the family of John Snapp, killed during a collision with a tractor operated by the State of Tennessee, achieving a maximum verdict despite his advanced age;
- *Jordan Long v. Shelby Co.* Healthcare Corp. Served as co-counsel in a birth trauma medical malpractice case for a child suffering cerebral palsy during delivery, securing a verdict of $33.5 million;
- *Christopher Myles v. Franklin Limestone.* Represented an employee with catastrophic injuries, including paraplegia, after a mine cave-in, securing maximum compensation that included home conversion, vehicle alteration and lifetime medical care;
- *FedEx Ground Package System*. Represented employee delivery drivers across Tennessee misclassified as independent contractors, securing state-wide reclassification and compensation;
- *Jeannie Townsend et al v. Flowmaster et al.* Represented multiple families in catastrophic injury and death cases against event organizers when a drag race car sped into a crowd during an outdoor festival, forcing changes to how events are held;
- *Pantuso v. Wright Medical Technology.* Served as co-counsel for a victim of a defective hip implant from Utah in a lead case that established the law in Tennessee for choice of venue for Wright Medical titanium hip implant failures nationwide, leading to multi-state coordinated litigation that secured compensation for hundreds of injured victims;
- *Sarah Espinoza v. Lyft, Inc.* Served as co-counsel in a catastrophic injury case involving a young flight attendant injured during a Lyft ride, which included enhanced damages for increased risk of miscarriage during anticipated future pregnancies.

A 1994 graduate of Rhodes College, Mr. Gilreath worked on the U.S. Senate Budget Committee in Washington, D.C., before receiving his J.D. in 1997 from Cumberland School of Law, with an emphasis on jury litigation and multi-jurisdictional procedure. While at Rhodes, he earned the 1994 Algernon Sydney-Sullivan Award for outstanding contribution to the college. At Cumberland Law School, he earned the American Jurisprudence Award for Complex Litigation and served on the Cumberland Honor Court.

A second-generation trial lawyer, Mr. Gilreath grew up watching his father, Sidney Gilreath, represent injured victims in serious cases. In 2005, Mr. Gilreath was named managing attorney of the Memphis office of Gilreath & Associates, representing clients state-wide. He joined Stranch, Jennings & Garvey in early 2024.

In addition to his legal career, Mr. Gilreath is a longtime supporter of Tennessee's civil justice system. After serving as a Knox County Election Commissioner and helping oversee impartial voting systems, he has litigated numerous election dispute cases and regularly serves as counsel in election protection efforts in battleground states during presidential election cycles. He was elected Chair of the American Association for Justice New Lawyers' Division, served on the association's Board of Governors and Executive Committee, and continues to mentor young lawyers.

Mr. Gilreath lives in Memphis and enjoys live music, being active, cooking and traveling. He continues to help his two sons with school, career and sports activities and decisions, and mentors adults facing difficult life circumstances.

PRACTICE AREAS

- Personal Injury
  - Car Crashes
  - Catastrophic Injury
  - Defective Medical Products
  - Trucking Wrecks

EDUCATION

- Cumberland School of Law, Samford University (J.D., 1997)
- Rhodes College (B.A., 1994)

BAR ADMISSIONS

- Tennessee
- District of Columbia
- Arkansas
- U.S. District Court for the Eastern District of Tennessee
- U.S. District Court for the Middle District of Tennessee
- U.S. District Court for the Western District of Tennessee
- U.S. 6th Circuit Court of Appeals
- U.S. Supreme Court

PROFESSIONAL HONORS & ACTIVITIES

Awards

- AV Preeminent Rating and Ethical and Judicial Recognition by Martindale Hubbell
- Soaring Eagle Award, New Lawyers Division of the American Association of JusticeMemberships

Memberships

- Memphis Bar Association
- Tennessee Trial Lawyers Association, Board of Governors
- Southern Trial Lawyers Association
- American Association for Justice
  - Served as Chair of the New Lawyers Division (2005-2006)
  - Served as Chair of the Compliance Committee for the Board of Governors (2009-2011)
  - Served on the Executive, Public Education, Election and Budget Committees

PRESENTATIONS AND PUBLISHED WORKS

- Southern Trial Lawyers Association, "Strategic Use of Collaborative Partnerships" (Feb. 10, 2015)
- Southern Trial Lawyers Association, "Party Crasher – Applying One State's Law in Another Venue" (February 2017)
- Tennessee Trial Lawyers Association, "Medical Device Cases – Screen Them Differently" (2019 Winter Magazine)
- Southern Trial Lawyers Association, "Handling Medical Device Cases" (October 2021)

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Isaac Kimes

MEMBER

Isaac Kimes is a trial lawyer who has devoted his career to representing individuals harmed by other parties, including corporations and government entities. Mr. Kimes co-leads the personal injury practice group at Stranch, Jennings & Garvey.

Before joining Stranch, Jennings & Garvey (previously Branstetter, Stranch & Jennings) in 2022, Mr. Kimes was an attorney with a regional personal injury firm, where he tried cases to jury verdict in state and federal court. Mr. Kimes has also served as an advisor in the Tennessee Senate. Prior to law school, he was an organizer with a non-profit organization focused on reforming criminal justice policy.

Mr. Kimes obtained his B.S. in Justice Studies from Arizona State University in 2007. In 2008, he was honored as an outstanding alumnus for his work on criminal justice policy. A 2012 graduate of The University of Memphis Law School, Mr. Kimes served on The University of Memphis Law Review as Symposium Editor.

Mr. Kimes resides in the Nashville area with his family. In his free time, he enjoys grilling in his backyard and watching his beloved Tottenham Hotspur and Seattle Seahawks.

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PRACTICE AREAS

- Personal Injury
- Trucking Wrecks
- Medical Malpractice
- Nursing Home Abuse and Neglect
- Complex and Mass Torts Litigation
- Product Liability

EDUCATION

- The University of Memphis, Cecil C. Humphreys School of Law (J.D., 2012)
- Arizona State University (B.S., 2007)

BAR ADMISSIONS

- Tennessee
- Missouri
- U.S. District Court Middle District of Tennessee

EXPERIENCE

Representative Cases:

- Davidson County Circuit Court bench trial verdict of $205,274.24 following zero offers made prior to trial (January 2022)
- Davidson County Circuit Court jury trial verdict of $122,755.46 following a top pre-trial offer of $30,000 (May 2021)
- Davidson County General Sessions bench trial verdict in favor of dog sitting business that had been sued for negligence resulting in a dog's injury (March 2020)
- Millions of dollars secured for his clients in settlements since 2012

PROFESSIONAL HONORS & ACTIVITIES

Honors

- Mid-South Super Lawyers (2023, 2024)
- Tennessee Bar Association Leadership Law Class of 2023 graduate
- Mid-South Super Lawyers Rising Star (2021 – 2022)

Memberships

- Belmont University College of Law American Inn of Court, Barrister (2023-2024)
- Nashville Bar Association
- Tennessee Bar Association
- Former board member, AFL-CIO Lawyers Coordinating Committee
- Former board member, American Constitution Society, Nashville Lawyers Chapter
- Former board member, Lawyers Association for Women, Marion Griffin Chapter

SEMINARS & PUBLISHED WORKS

Published Works

- Note, Unfettered Clawbacks – Why Section 304 of the Sarbanes-Oxley Act Requires a Personal Misconduct Standard, 42 U. MEM. L. REV. 797, cited in Lee A. Harris, Cases and Materials on Corporations and Other Business Entities: A Practical Approach 267 (2011)
- Bolder Advocacy Guides on Tennessee Campaign Finance, Tennessee Voter Registration, and Tennessee Lobbying Disclosure (June 2017)
- Tennessee Promise Needs Change, Clarksville Leaf Chronicle, by State Sen. Lee Harris and Isaac Kimes (April 13, 2016)

Seminars

- "Personal Injury and Economic Deterrence," Law and Economics, Western Kentucky University (March 2020, March 2022)
- "Citizen Lobbying," Vanderbilt University (March 2020)
- "Legislation in the Context of Mass Incarceration," Project MI (June 2017)
- "Legislation for Educators," Nashville Teacher Residency (April 2017)
- "Legislation for Healthcare Professionals," Health Policy Practicum course at The University of Memphis Law School (February 2017)

COMMUNITY INVOLVEMENT

- Board of Advisors, YMCA Donelson-Hermitage (2024 - 2027 term)
- President, Shelby County Government Community Fund (appointed in 2023)
- Treasurer, Tennessee Voter Project PAC (2017 – present)
- Board Member, Inglewood Neighborhood Association, Nashville, (2016 – 2019)
- Volunteer Coach and Referee, East Nash Soccer, Nashville (2016 – 2018)
- Alumnus, Tennessee Bureau of Investigation Citizen's Academy (Class of 2017)
- Volunteer Coach, Stratford High School Girls Varsity Soccer, Nashville (2016)

SJG STRANCH, JENNINGS & GARVEY PLLC

Nathan R. Ring

MEMBER

Nate Ring oversees the firm's Las Vegas office. He concentrates his practice in the areas of labor, employment, ERISA and election law. He has represented working people and their unions across Nevada, Oregon and Washington.

Mr. Ring serves as counsel to the Nevada State AFL-CIO, Southern Nevada Building Trades Unions, the Building and Construction Trades Council of Northern Nevada, and numerous local unions. He has also served as counsel for numerous union-affiliated political action committees. He represents clients in federal and state trial and appellate courts, before administrative agencies, in arbitrations and mediations, and in the negotiation of collective bargaining agreements.

Mr. Ring earned his B.A. in public affairs in 2007 from Wayne State University in Detroit, Michigan. During his undergraduate studies, he managed and worked on Democratic political campaigns and interned for United States Senator Debbie Stabenow. He graduated *cum laude* in 2010 from the University of Nevada, Las Vegas, William S. Boyd School of Law. During law school, he served as an elected officer of the Student Bar Association and as a law clerk for the UAW legal department. He was awarded the Dean's Graduation Award for Outstanding Achievement and Contribution to the Law School.

Following law school, Mr. Ring clerked for a Nevada District Court Judge, then began his practice of law in the representation of labor unions and employee benefit trust funds. In 2015, he received the Go-to Guy Award from the Nevada State AFL-CIO for advice and counsel provided to the state federation and its affiliates during the legislative session. He is a member of the AFL-CIO Union Lawyers Alliance, and was recognized as a Super Lawyers Rising Star in Labor and Employment Law from 2014 - 2020.

A native of Michigan, Mr. Ring resides in Las Vegas with his wife, Nevada Senate Majority Leader Nicole Cannizzaro and their sons, Case and Cole. When not practicing law, he enjoys spending time with his family, watching sports and playing an occasional round of golf.

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PRACTICE AREAS

- Labor
- Employment
- ERISA Trust Funds
- Election Law

EDUCATION

- University of Nevada, Las Vegas, William S. Boyd School of Law (J.D., *cum laude*, 2010)
  - Competitor, Conrad Duberstein Bankruptcy Moot Court Competition
  - Secretary, Student Bar Association
- Wayne State University (B.A., Public Affairs, 2007)

EXPERIENCE

- Lehman v. Nelson, 943 F.3d 891 (9th Cir. 2019): Represented a Taft-Hartley Pension Plan and argued before the Ninth Circuit in a matter of first impression under the Pension Protection Act of 2006.
- Glazing Health & Welfare Fund v. Lamek, 896 F.3d 908 (9th Cir. 2018): Represented multiple Taft-Hartley Trust Funds as amici in a case setting Ninth Circuit precedent on liability of owners as ERISA fiduciaries for unpaid fringe benefit contributions.
- Lehman v. Nelson, 862 F.3d 1203 (9th Cir. 2017): Represented a Taft-Hartley Pension Plan in a successful Ninth Circuit appeal of a district court decision concerning contribution reciprocity under the Pension Protection Act of 2006.
- International Brotherhood of Teamsters, Airline Division v. Allegiant Air, LLC, 788 F.3d 1080 (9th Cir. 2015): Represented an international labor union and argued before the Ninth Circuit in an appeal raising an issue of first impression concerning bargaining under the Railway Labor Act.
- W.G. Clark Construction Co. v. Pacific NW Regional Council of Carpenters, 322 P.3d 1207 (Wash. 2014): Represented a Taft-Hartley Trust Fund as amici in a case that overturned prior Washington Supreme Court precedent, which held that ERISA Trust Funds could not recover contributions through state-required contractor bonds.
- Operating Engineers Pension Trust v. Thornton Concrete Pumping, 806 F.Supp.2d 1135 (D. Nev. 2011): Successfully represented Taft-Hartley Trust Funds in obtaining a district court judgment against a general contractor for its subcontractor's unpaid fringe benefit contributions under Nevada Revised Statutes 608.150.

BAR ADMISSIONS

- Nevada
- Washington
- Oregon
- U.S. 9th Circuit Court of Appeals
- U.S. District Court – District of Nevada
- U.S. District Court Western District of Washington
- U.S. District Court Eastern District of Washington
- U.S. District Court – District of Oregon

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Labor Partner of the Year Award from the Southern Nevada Building Trades Unions (2022)
- Super Lawyers Rising Star, Employment and Labor Law (2014 – 2020)
- Go-to Guy Award, Nevada State AFL-CIO (awarded by the executive secretary-treasurer for representation of the labor movement during the 2015 Nevada Legislative Session)
- Young Lawyers Division Fellow, ABA Labor & Employment Law Section (2012)
- Dean's Graduation Award for Outstanding Achievement and Contribution to the Law School, William S. Boyd School of Law, UNLV (2010)

Memberships

- State Bar of Nevada
- Washington State Bar Association
- Oregon State Bar
- International Foundation of Employee Benefit Plans
- AFL-CIO Union Lawyers Alliance

PRESENTATIONS

- "Strategize for Conscious Capital for Turbulent Times," Made in America Taft-Hartley Benefits Summit (2021)
- "LMRDA: An Overview," Southern Nevada Building Trade Unions Conference (2021)
- "Update on the Substance Abuse Epidemic and Controlling Behavioral Health Costs," Made in America Taft-Hartley Benefits Summit (2019)
- "Election Campaigns: Legal Overview," Nevada State AFL-CIO COPE Conference (2018)

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Marty Schubert

MEMBER

Marty Schubert focuses his practice on the firm's class action litigation, and currently represents numerous consumers who were charged improper overdraft fees by their banks or credit unions. He also assists with matters relating to voting rights and ballot access, and previously served as the voter protection director for the Tennessee Democratic Party.

Before joining Stranch, Jennings & Garvey, Mr. Schubert was a U.S. associate with Linklaters LLP in London, England, and an associate with Waller Lansden Dortch & Davis, LLP in Nashville. A native Chicagoan, he began his career as a middle school teacher in South Los Angeles. Before attending law school, he worked as a field organizer for the Obama campaign and as an Obama administration appointee at the U.S. Department of Education in Washington, D.C. Prior to beginning his legal practice, he served as a judicial intern with Chief U.S. District Judge Colleen McMahon of the U.S. District Court for the Southern District of New York.

Mr. Schubert is a 2013 graduate of Brooklyn Law School. He graduated *cum laude* from Georgetown University in 2006 and earned his M.A. in secondary education in 2008 from Loyola Marymount University.

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PRACTICE AREAS
- Class Action Litigation

EDUCATION
- Brooklyn Law School (J.D., 2013)
  - Member, *Brooklyn Law Review*
- Loyola Marymount University (M.A., Secondary Education, 2008)
- Georgetown University (B.S., Foreign Service, *cum laude*, 2006)

EXPERIENCE
- Prosecuted class action lawsuits in 40+ states – both in state and federal courts – on behalf of consumers against their financial institutions
- Obtained fee refunds in excess of $100+ million for more than one million consumers charged improper overdraft and non-sufficient funds fees by their banks and credit unions

BAR ADMISSIONS
- Tennessee
- New York

PROFESSIONAL HONORS & ACTIVITIES
Memberships
- Nashville Bar Association
- Tennessee Trial Lawyers Association (2019)

PUBLISHED WORKS
- Note, When Vultures Attack: Balancing the Right to Immunity Against Reckless Sovereigns, 78 BROOK L. REV. (Spring 2013)

LANGUAGES
- English
- Spanish

COMMUNITY INVOLVEMENT
- Throughout his career, Mr. Schubert has been involved in local education issues by representing suspended or truant students in administrative proceedings and serving as a committee member of the Nashville Area Chamber of Commerce's Education Report Card.
- He is also a founding board member of The Ubunye Challenge, which raises funds for educational initiatives in southern Africa and the Caribbean through athletic endurance competitions.

Karla M. Campbell

OF COUNSEL

Karla Campbell is a dedicated advocate of employee rights, with a wide range of experience in civil litigation, appellate practice, labor, employment and ERISA. In addition to her general civil and appellate practice, Ms. Campbell is also active in providing labor and ERISA services to union-side and individual clients.

Prior to joining the firm, Ms. Campbell was a litigation attorney in Washington, D.C. She was the first law clerk selected to serve with the Hon. Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals. In addition, she holds a certificate in Refugee and Humanitarian Emergencies, and proudly served as a Peace Corps Volunteer in Ecuador for three years.

Ms. Campbell is a 2002 graduate of the University of Virginia. She earned her J.D. degree in 2008 from Georgetown University Law Center, where she served as the article selection editor of the Georgetown Immigration Law Journal. She is a member of the American, Tennessee and Nashville Bar Associations; the board of directors of the AFL-CIO Lawyers Coordinating Committee; the American Constitution Society, Nashville Lawyers Chapter; and the Lawyers Association for Women, Marion Griffin Chapter.

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PRACTICE AREAS
- Appellate Practice
- Civil Litigation
- Employment Law
- ERISA Trust Funds
- Labor Law

EDUCATION
- Georgetown University Law Center (J.D., 2008)
  - Article Selection Editor, *Georgetown Immigration Law Journal*
- University of Virginia (B.A., *highest distinction*, 2002)

CLERKSHIP
- Hon. Jane B. Stranch of the U.S. 6th Circuit Court of Appeals

BAR ADMISSIONS
- Tennessee
- Ohio

EXPERIENCE
Representative Cases:
- Successfully argued for claimants' direct access to the courts in certain ERISA cases, an issue of first impression in the U.S. 6th Circuit Court of Appeals, in Hitchcock v. Cumberland University.
- Negotiated the first community benefits agreement in Tennessee around the Nashville Major League Soccer stadium on behalf of community groups (2018).
- Successfully argued that Google and Cognizant Technology Solutions U.S. Corp. jointly employ YouTube Music content operations workers. The NLRB Region 16 director ruled in March 2023 that Google LLC, whose parent company is Alphabet, has control over benefits, employee hours, supervision and direction of work. The Alphabet Workers Union filed a petition for a representation election in October 2022.

PROFESSIONAL HONORS & ACTIVITIES
Memberships
- American Bar Association
- Nashville Bar Association
- Tennessee Bar Association
- Former board member, AFL-CIO Lawyers Coordinating Committee
- Former board member, American Constitution Society, Nashville Lawyers Chapter
- Former board member, Lawyers Association for Women, Marion Griffin Chapter

PUBLISHED WORKS
- The Convergence of U.S. Immigration Policies: A Two-Factor Economic Model, 21 Geo. Immigr. L.J. 663, 2007

LANGUAGES
- English
- Spanish

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STRANCH, JENNINGS & GARVEY PLLC

Elizabeth Fischer

ATTORNEY

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LOCATION
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Elizabeth Fischer officially joined Stranch, Jennings & Garvey (SJ&G) in 2024. She specializes in complex civil litigation, including class actions, consumer protection, and antitrust in both state and federal courts.

Since 2009, Ms. Fischer has worked on numerous SJ&G (previously Branstetter, Stranch & Jennings) cases as a contract attorney, with a focus on e-discovery for complex litigation on pharmaceutical antitrust, mass tort consumer protection and securities litigation.

Ms. Fischer has also maintained an independent practice in elder and estate law, serving clients in Pennsylvania and New Jersey, where she prepared wills, administered estates and oversaw guardianships.

A 2004 graduate of Vassar College, Ms. Fischer earned her J.D. in 2008 from Rutgers Law School in Camden, New Jersey. She lives with her husband in Philadelphia, Pennsylvania, and enjoys traveling, trivia (she was a *Jeopardy!* champion in 2017), and organizing a 1,300-plus-member book club and social group.

A Nashville native and graduate of the University School of Nashville, she enjoys seeing her hometown become a vibrant cultural destination.

PRACTICE AREAS

- Antitrust
- Class Action
- Civil Litigation
- Consumer Protection
- Mass Tort

EDUCATION

- Rutgers Law School — Camden (J.D., 2008)
  - First Year Honors, Dean's List 2L and 3L
  - Association for Public Interest Law Grant Recipient (2007)
  - Internship, Defender Association of Philadelphia, Pennsylvania
  - Children's Justice Clinic (Camden, New Jersey)
  - Pro Bono Publico Award (2008)
- Vassar College (B.A., 2004)

BAR ADMISSIONS

- New Jersey (2008)
- Pennsylvania (2008)
- Tennessee (2009)

EXPERIENCE

Representative Cases

- In re: TelexFree Securities Litigation
- In re: Rock 'n Play Sleeper Marketing, Sales Practices, and Products Liability
- In re: National Prescription Opiate Litigation; Staubus v. Purdue Pharma et al.
- In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation
- In re: Skelaxin (Metaxalone) Antitrust Litigation
- In re: Dahl v. Bain Capital Partners et al.
- In re: Wellbutrin XL Antitrust Litigation

COMMUNITY INVOLVEMENT

- District Representative and Executive Board Member, Central Roxborough Civic Association, Philadelphia, PA (2014-2016)
- Committeeperson, Philadelphia Democratic Committee, 21st Ward, Philadelphia, PA (2014-2018)
- Trustee, Manayunk Neighborhood Council, Philadelphia, PA (2016-2018)
- Recording Secretary & Executive Board Member, Central Roxborough Civic Association, Philadelphia, PA (2016-2020)

PRESENTATIONS, SEMINARS AND PUBLISHED WORKS

- "Disasters, Families, and the Law," Acknowledgement, 28 Women's Rights Law Reporter 35 (2007).

LANGUAGES

- English
- French

Colleen Garvey

ATTORNEY

St. Louis native Colleen Garvey joined Stranch, Jennings & Garvey in 2022. Ms. Garvey previously worked at a top insurance defense firm in St. Louis, where she primarily practiced in premises liability, personal injury and catastrophic loss claims. She brings a unique perspective and desire to strongly advocate for those who have experienced injustice or harm.

Ms. Garvey earned her J.D. in 2020 from Saint Louis University School of Law. While attending law school, she worked as a law clerk at a plaintiff's firm for two years; served as a teaching fellow mentor for first-year law students; clerked for Judge Colleen Dolan on the Missouri Court of Appeals in the Eastern District; and, by invitation, served as a member of the prominent Theodore McMillian American Inn of Court. She also practiced as a Rule 13 certified law student for Saint Louis University's Criminal Law Clinic, representing indigent clients in criminal matters before state and federal judges.

Ms. Garvey graduated *magna cum laude* in 2016 from Rockhurst University in Kansas City, Missouri, with a B.A. in Psychology and a B.A. in English, and competed as a collegiate scholar athlete on the Rockhurst women's golf team.

Ms. Garvey resides in the City of St. Louis with her pet axolotl, Jerry. In her free time, she enjoys traveling and playing pickleball with her friends and family.

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PRACTICE AREAS

- Mass Torts
- Personal Injury
- Class Action Litigation and Complex Litigation
- General Civil Litigation
- Privacy Litigation

EDUCATION

- Saint Louis University School of Law (J.D., 2020)
- Rockhurst University (B.A., *magna cum laude*, 2016)

CLERKSHIP

- Hon. Colleen Dolan on the Missouri Court of Appeals in the Eastern District

BAR ADMISSIONS

- Missouri
- Illinois
- U.S. District Court for the Eastern District of Missouri

EXPERIENCE

Representative Case

- In re: Gill v. Abbott Laboratories, No. 2322-CC01251 (22nd Judicial Circuit Court of Missouri). A closely watched necrotizing enterocolitis (NEC) baby formula bellwether trial culminated in a $495 million judgment against Abbott Laboratories, a verdict that could affect many other lawsuits awaiting litigation in state and federal courts throughout the U.S.

PROFESSIONAL HONORS & ACTIVITIES

Awards

- 2023 Missouri & Kansas Super Lawyers® Class Action/Mass Torts Rising Stars
- 2023 National Trial Lawyers Civil Plaintiff Top 40 Under 40 Trial Lawyers in the state of Missouri

COMMUNITY INVOLVEMENT

- Missouri State Public Defender System's Coalition for the Right to Counsel Program (*pro bono* representative, 2020 – present)

Sam Gladney

ATTORNEY

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LOCATION
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St. Louis native Sam Gladney joined Stranch, Jennings & Garvey (SJ&G) in 2023. He concentrates his practice on labor law, employee benefits, nonprofit formation and compliance, and regulatory affairs. Mr. Gladney chose law as his profession because of his passion for public service and desire to help clients successfully navigate difficult circumstances.

Mr. Gladney earned his J.D. in 2016 from the University of Missouri – Kansas City School of Law. He is a graduate of the United States Military Academy at West Point, where he received a bachelor's degree in applied science. Following his graduation, he served in the U.S. Army for eight years, with two deployments in support of Operation Iraqi Freedom. During those deployments, he managed micro-grants to support Iraqi businesses southeast of Baghdad and led a platoon in Mosul. He was awarded the Bronze Star after his second deployment.

Mr. Gladney serves as the vice chair of the Bi-State Development Agency Board of Directors. He also serves on the Places for People Board of Directors. He previously served as chair of the Employee Benefits Section for the Bar Association of Metropolitan St. Louis.

PRACTICE AREAS

- Labor Law
- Employee Benefits
- Nonprofit Formation and Compliance
- Regulatory Affairs

EDUCATION

- University of Missouri – Kansas City School of Law (J.D., 2016)
- United States Military Academy at West Point (Bachelor of Applied Science, 2007)

BAR ADMISSIONS

- Missouri

EXPERIENCE

- Practiced before the National Labor Relations Board and Federal District Courts in both Missouri and Kansas.
- Served as counsel for numerous employee benefit funds during mergers.
- Successfully arbitrated on behalf of newspaper carriers for substantial backpay from their parent organization for contractual violations.
- Successfully litigated a ballot access case that led to the removal of an unqualified candidate from the ballot.

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Up & Coming Lawyers — Missouri Lawyers Media (2023)
- Bronze Star, U.S. Army

Memberships

- The Missouri Bar

COMMUNITY INVOLVEMENT

- Appointed by Gov. Mike Parson (Missouri) in 2020 as the vice chair of the Bi-State Development Agency Board of Directors
- Serves on the Places for People Board of Directors
- Served as the president of the West Point Society of Greater St. Louis from 2016-2020
- Member of the AFL-CIO Lawyers Coordinating Committee
- Mentor for transitioning service members with American Corporate Partners

SJG

STRANCH, JENNINGS & GARVEY
PLLC

Michael Iadevaia

ATTORNEY

Michael Iadevaia focuses his practice on labor union and worker representation across all labor and employment issues, including traditional labor, employment discrimination, wage and hour, and ERISA. In addition, he assists in the firm's complex litigation and class action practice.

Immediately before joining the firm, Mr. Iadevaia served as a law clerk for the Hon. Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals. He also worked for a prominent union-side labor law firm in Washington, D.C., where he represented local and international labor unions and their workers in federal courts, state courts, administrative tribunals and arbitrations, and clerked for a federal district court judge.

While in law school, Mr. Iadevaia worked for the Cornell Labor Law Clinic, where he represented workers and their unions in multiple arbitrations and unfair labor practice charges before the NLRB. He received the CALI Award for Excellence for receiving the highest grade in his labor law course, and won first place in the national College of Labor & Employment Lawyers and ABA Section of Labor & Employment Law Annual Law Student Writing Competition, publishing his piece on antitrust issues in no-poach agreements in the ABA Journal of Labor & Employment Law.

Mr. Iadevaia also served as a teaching assistant for an undergraduate course in labor and employment law, for which he earned the General Mills Award for Exemplary Graduate Assistant Teaching, and interned with the U.S. Department of Justice, Civil Rights Division, Disability Rights Section.

Mr. Iadevaia's sustained interest in workers' rights preceded his legal career. During his undergraduate studies at Cornell University's School of Industrial and Labor Relations, he served as a field examiner intern for Region 29 (Brooklyn) of the National Labor Relations Board, and as a research assistant for a professor regarded as a leading authority on union organizing and collective bargaining.

Originally from New York, Michael enjoys exploring Nashville and greater Tennessee. In his free time, he takes pride in cooking Italian cuisine and playing clarinet for the Nashville Community Concert Band.

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PRACTICE AREAS

- Labor Law
- Employment Law
- ERISA Trust Funds
- Appellate Practice
- Class Action Litigation and Complex Litigation

EDUCATION

- Cornell Law School (J.D., *cum laude*, 2019)
  - Articles Editor, Cornell Law Review
  - General Mills Award for Exemplary Graduate Teaching
  - CALI Award for Excellence in Labor Law
  - First Place, College of Labor & Employment Lawyers and ABA Section of Labor & Employment Law Annual Law Student Writing Competition
- Cornell University, School of Industrial and Labor Relations (B.S., *with honors*, 2016)

CLERKSHIP

- Hon. Jane B. Stranch of the U.S. 6th Circuit Court of Appeals

BAR ADMISSIONS

- Tennessee
- New York
- District of Columbia
- U.S. District Court for the Middle District of Tennessee
- U.S. 3rd Circuit Court of Appeals
- U.S. 6th Circuit Court of Appeals
- U.S. 7th Circuit Court of Appeals
- U.S. 10th Circuit Court of Appeals
- U.S. D.C. Circuit Court of Appeals

PROFESSIONAL HONORS & ACTIVITIES

Activities

- Contributing Editor, *The Developing Labor Law*

Memberships

- American Bar Association
- D.C. Bar Association

PUBLISHED WORKS

- Poach-No-More: Antitrust Considerations of Intra-Franchise No-Poach Agreements, 35 *ABA Journal of Labor & Employment Law 151* (2020)

LANGUAGES

- English
- Italian

SJG
STRANCH, JENNINGS & GARVEY
PLLC

Kyle C. Mallinak

ATTORNEY

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LOCATION
The Freedom Center
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Kyle Mallinak is an experienced litigator in the areas of complex civil litigation, business litigation and administrative law.

Before joining Stranch, Jennings & Garvey (previously Branstetter, Stranch & Jennings) in 2022, he spent four years as an assistant attorney general in Colorado and Tennessee, where he litigated disciplinary proceedings against healthcare professionals and oversaw investigations against unlicensed healthcare facilities. He previously served as a judicial clerk for the Hon. Robert E. Payne in the U.S. District Court for the Eastern District of Virginia and for the Hon. Eugene E. Siler in the U.S. 6th Circuit Court of Appeals.

Mr. Mallinak is a native of Kingsport, Tennessee. He obtained his B.A. in international studies from the University of South Carolina in 2010, where he was named a McNair Scholar. He earned his J.D. from the University of Virginia School of Law in 2013, where he received a Dean's Scholarship and served as an editor for the Virginia Law Review. While at Virginia, he received an award from the National Association of Women Lawyers for his work in securing the constitutional rights of female military service members.

Mr. Mallinak lives in Nashville with his wife and two black cats. In his free time, he studies the political views and writings of the Founding Fathers.

PRACTICE AREAS

- Class Action Litigation and Complex Civil Litigation
- Consumer Rights Litigation
- General Civil Litigation
- Business Litigation

EDUCATION

- University of Virginia School of Law (J.D., 2013)
  - Editor, *Virginia Law Review*
  - Dean's Scholarship
  - Order of the Coif
  - Outstanding Student Award, National Association of Women Lawyers
- University of South Carolina (B.A., 2010)
  - Graduate of the South Carolina Honors College
  - McNair Scholar

CLERKSHIP

- Hon. Robert E. Payne of the U.S. District Court for the Eastern District of Virginia
- Hon. Eugene E. Siler of the U.S. 6th Circuit Court of Appeals

BAR ADMISSIONS

- Missouri
- Illinois
- U.S. District Court for the Eastern District of Missouri

SJG

STRANCH, JENNINGS & GARVEY
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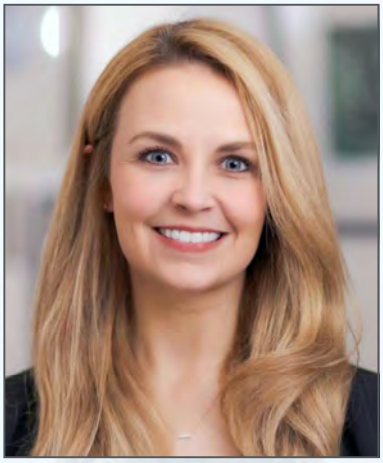

Janna Maples

ATTORNEY

Janna Maples joined Stranch, Jennings, & Garvey in 2017 and has spent the majority of her time with the firm working on complex product liability cases. During litigation, she focuses on corporate discovery, case strategy, questioning of witnesses, expert witnesses and trial strategy.

Ms. Maples previously worked on the firm's opioid litigation, and her work was integral to plaintiffs obtaining a default judgment against Endo Pharmaceuticals for discovery misconduct and uncovering Endo's years of discovery malfeasance throughout the country. In 2022, Ms. Maples and the members of the opioid team were awarded the Outstanding Trial Lawyer of the Year Award from the Tennessee Trial Lawyers Association for their work on opioid litigation on behalf of cities and counties in Northeast Tennessee.

Ms. Maples is currently actively litigating cases against infant formula manufacturers Abbott and Mead Johnson concerning the use of their products for premature infants, which increases the risk of the deadly disease necrotizing enterocolitis (NEC). In 2024, her work as a member of the trial team helped secure the first jury verdict in an NEC case against Abbott Laboratories.

Ms. Maples earned a Juris Doctorate from Vanderbilt University Law School, where she served as Chief Justice of the Moot Court Board and was awarded the Scholastic Excellence Award in Environmental Law. She earned her undergraduate degree in English and Political Science from Auburn University.

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PRACTICE AREAS

- Class Action
- Mass Tort
- Personal Injury
- Product Liability
- Necrotizing Enterocolitis (NEC)
- Opioid Litigation

EDUCATION

- Vanderbilt University Law School (J.D., 2013)
  - Chief Justice of the Moot Court Board
  - Scholastic Excellence Award in Environmental Law
- Auburn University (B.A., 2010)

EXPERIENCE

- In re: Gill v. Abbott Laboratories, No. 2322-CC01251 (22nd Judicial Circuit Court of Missouri). A closely watched necrotizing enterocolitis (NEC) baby formula bellwether trial culminated in a $495 million judgment against Abbott Laboratories, a verdict that could affect many other lawsuits awaiting litigation in state and federal courts throughout the U.S.
- Staubus v. Purdue Pharma, Inc. et al. (Sullivan County, Tennessee)
- In re: Loestrin 24 FE Antitrust Litigation (D.R.I.)

BAR ADMISSIONS

- Tennessee
- U.S. District Court for the Middle District of Tennessee

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Super Lawyers MidSouth Rising Star
- Tennessee Trial Lawyer of the Year (2022)

Memberships

- Tennessee Bar Association
- Nashville Bar Association
- American Association of Justice

PRESENTATIONS, SEMINARS & PUBLISHED WORKS

Ms. Maples regularly speaks at conferences on issues in litigation, discovery, mass torts and class actions.

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Nathan Martin

ATTORNEY

Nathan Martin concentrates his practice in class actions and civil litigation, with a focus on contract law. A Nashville native, he earned his J.D. in 2021 from the Nashville School of Law, and his B.A. in 2000 from the University of Tennessee. Prior to joining the firm, he worked for many years in the valet parking services industry, where he first managed the private events division, then the valet services division for medical centers and large accounts in the Middle Tennessee area.

As an attorney, Mr. Martin continues the legal tradition first established by his father, a criminal defense attorney, and models his practice after his father's longtime efforts to protect the rights of his clients and ensure fair treatment under the law.

Away from the office, he resides with his wife and daughter, and enjoys hiking, biking, camping and travel.

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PRACTICE AREAS

- Civil Litigation
- Class Action

EDUCATION

- Nashville School of Law (J.D. 2021)
- University of Tennessee (B.A., sociology with focus in criminal justice, 2000)

BAR ADMISSIONS

- Tennessee

PROFESSIONAL HONORS & ACTIVITIES

Memberships

- Tennessee Bar Association (2021)
- Nashville Bar Association (2022)

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Andrew E. Mize

ATTORNEY

Andrew Mize joined Stranch, Jennings & Garvey (previously Branstetter, Stranch & Jennings) in 2021 and concentrates his practice in areas of complex civil litigation, including class actions, labor law and administrative law.

Mr. Mize has more than a decade of experience in the fields of personal injury litigation, education law and special education law, in civil rights law, including 42 U.S.C. § 1983, and in misdemeanor and felony criminal defense. Mr. Mize has represented clients in state and federal court at the trial and appellate levels, with a singular focus on obtaining the best results for clients. Prior to joining the firm, he was a partner at Gordon & Mize, LLP, in Louisville, Kentucky.

Mr. Mize graduated *cum laude* from the University of Louisville, Louis D. Brandeis School of Law in 2011, where he was a member of the University of Louisville Law Review. During law school, he was a member of Phi Alpha Delta Law Fraternity and the National Lawyers Guild, and spent his summers interning with the Kentucky Department of Public Advocacy. He earned a Bachelor of Arts from Centre College in 2008, with double majors in government and history, and double minors in international studies and political economy. While in college, he was a member of Beta Theta Pi.

Mr. Mize lives in Louisville, Kentucky, with his wife, who is an accountant. His interests include history, shooting sports, art, the outdoors and travel.

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PRACTICE AREAS

- Civil Litigation
  - Class Actions
  - Labor law
  - Personal injury
  - Education and special education law
  - Civil rights
  - Administrative law matters
- Appellate Practice
- Criminal Law

EDUCATION

- Louis D. Brandeis School of Law, University of Louisville (J.D., *cum laude*, 2011)
- Centre College, B.A. (2008)
- Culver Military Academy (2004)

BAR ADMISSIONS

- Kentucky
- U.S. District Court for the Western District of Kentucky
- U.S. 6th Circuit Court of Appeals

EXPERIENCE

Representative cases:

- Obtained reversal of District Court grant of summary judgment to defendant school board and employees in case involving disability discrimination of a child from the U.S. Court of Appeals for the Sixth Circuit, *Clemons v. Shelby Cty. Bd. of Educ.*, 19-5846, 818 Fed.Appx. 453 (6th Cir. 2020)
- Favorable resolution of medical malpractice action involving plaintiff injured during gynecological surgery, resulting in significant damages
- Highly favorable resolutions in numerous cases involving minor students injured at school due to negligence supervision, including bullying and discrimination

PROFESSIONAL HONORS & ACTIVITIES

Memberships

- Kentucky Bar Association

PRESENTATIONS, SEMINARS & PUBLISHED WORKS

- *When Lady Justice Sought Her Sight: Judicial Selection in Kentucky in Light of Recent Trends and Carey v. Wolnitzek*, 50 U. LOU. L. REV. 383 (2011).

Emily E. Schiller

ATTORNEY

Before joining Stranch, Jennings & Garvey, Emily Schiller served as a federal clerk for the Hon. Rebecca Grady Jennings in the Western District of Kentucky. Prior to her two-year clerkship, she worked with her lawyer-father, where she assisted with women's civil rights litigation.

Ms. Schiller graduated from Tennessee Technological University in 2016 with two STEM degrees and a minor in history. Her first degree is in chemistry with a concentration in biochemistry, and her second is in biology with a concentration in health sciences. She earned her J.D. degree in 2021 from Washington University in St. Louis, where she served as the online content editor for the *Washington University Law Review*.

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PRACTICE AREAS

- Civil Rights
- Intellectual Property
- Class Action
- Privacy Litigation

EDUCATION

- Washington University in St. Louis School of Law (J.D., 2021)
  - Online Content Editor, *Washington University Law Review*
  - Scholar in Law Scholarship Award
  - Washington Scholarship Award
  - Dean's Scholar Award
  - Dean's Leadership Award
- Tennessee Technological University (Dual Degrees: B.S. in Chemistry, *summa cum laude, in cursu honorum* | B.S. in Biology, *summa cum laude, in cursu honorum*, 2016)
  - Captain William Lafayette Anderson Scholarship
  - Joseph B. Hix Memorial Scholarship
  - Winchester History Scholarship
  - Minor in History

BAR ADMISSIONS

- Tennessee

PROFESSIONAL HONORS & ACTIVITIES

Membership

- Tennessee Bar Association

COMMUNITY INVOLVEMENT

- tnAchieves Mentor
- Washington University in St. Louis School of Law Pro Bono Pledge Award
- STEM Outreach events
- Senior citizen technology outreach

PRESENTATIONS, SEMINARS & PUBLISHED WORKS

Presentations

- "Law School and Judicial Clerking: An Overview," Tennessee Technological University (2023)
- "Investigation of the Shape of Atrope Isomers using Dipolar Couplings," Poster session presented at the 251st American Chemical Society National Meeting & Exposition, San Diego, California (2016)
- "The Organic Molecule Synthesis for Use in the Investigation of Atrope Isomer Shapes," Poster session presented at 2015 SERMACS – SWRM, ACS Regional Meeting, Memphis, Tennessee (2015)
- "Differences in Proton NMR Spectra of Methane and Ethane in Varying Solution," Poster session presented at the 249th ACS National Meeting & Exposition, Denver, Colorado (2015)

Published Works

- Donald Walker, Emily E. Schiller et al., *Methodological Considerations for Detection of Terrestrial Small-Body Salamander eDNA and Implications for Biodiversity Conservation*, Molecular Ecology Resources, Nov. 2017, at 1223. doi: 10.1111/1755-0998.12667

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Miles M. Schiller

ATTORNEY

Before joining Stranch, Jennings & Garvey in 2024, Miles Schiller served as a federal clerk for the Hon. Rebecca Grady Jennings in the Western District of Kentucky. Prior to his clerkship, he worked with his lawyer-father, where he assisted with women's civil rights litigation. He also worked with a prominent medical malpractice plaintiff's firm in Knoxville, Tennessee.

Mr. Schiller graduated from Tennessee Technological University in 2019 with a STEM degree in Psychology and a minor in Biology. He earned his J.D. degree in 2023 from the University of Tennessee, where he served as a member of UT's National Moot Court team and was named the Outstanding Oral Advocate two years consecutively in the National Moot Court Region Seven Championship Round. For his oral advocacy and brief writing on the National Moot Court Team, Mr. Schiller was awarded the American College of Trial Lawyers Medal of Excellence twice, the Center for Advocacy Brief Writing Award twice, and the University of Tennessee College of Law's highest moot court award, the Susan Devitt Moot Court Award.

While in law school, Mr. Schiller received the CALI Award for Excellence for earning the highest grade in both his Trial Practice and Criminal Pretrial Litigation classes, and was inducted into the Order of Barristers honor society for demonstrating excellence in the preparation and presentation of moot appellate argument.

He also worked as a student attorney in the University of Tennessee Law Advocacy Clinic, where he represented low-income individuals in juvenile criminal proceedings and worked to restore disenfranchised voters' rights.

Mr. Schiller resides in the Nashville area with his family. In his personal time, he enjoys photography and rebuilding antique tractors.

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PRACTICE AREAS

- Civil Rights
- Class Action
- Cybersecurity Litigation
- Privacy Litigation

EDUCATION

University of Tennessee College of Law (J.D., *cum laude*, 2023)

- University of Tennessee Law National Moot Court Team (2021-2022)
- CALI Award for Excellence in Trial Practice
- CALI Award for Excellence in Criminal Pretrial Litigation
- University of Tennessee Law Scholarship Award

Tennessee Technological University (B.S. in Psychology, *magna cum laude*, 2019)

- University Academic Service Scholarship
- Minor in Biology

BAR ADMISSIONS

- Tennessee

PROFESSIONAL HONORS & ACTIVITIES

Awards

- Order of Barristers (2023)
- Susan Devitt Moot Court Award (2023)
- American College of Trial Lawyers Lewis F. Powell Jr. Medal of Excellence (2022, 2023)
- University of Tennessee College of Law's Center for Advocacy Brief Writing Award (2022, 2023)
- Outstanding Oral Advocate, National Moot Court Region 7 Championship (2021, 2022)
- Best Oralist, Ray H. Jenkins Trial Competition Championship (2021)

Membership

- Tennessee Bar Association

PRESENTATIONS, SEMINARS & PUBLISHED WORKS

Presentations

- Schiller, M.M., & Kazanas, S.A. (2019, November). *Social Anxiety and False Memory: New Insights for the Mood Induction Literature.* Poster presented at the 60th Psychonomic Society Annual Meeting, Quebec, Canada.
- Hazleton, S.G., Reeder, A.M., Schiller, M.M., Treece, C.A., Bethke, L.M., Bullion, M.T., & Kazanas, S.A. (2019, May) *Addressing Psychology's Replication Crisis in the Classroom: Students' Quantitative and Qualitative Changes across the Semester.* Poster presented at the 31st Annual Convention of the Association for Psychological Science, Washington, D.C.

Published Works

- Schiller, M.M., & Kazanas S.A. (2019) Selective Attending. In: *Shackelford T., Weekes-Shackelford V. (eds) Encyclopedia of Evolutionary Psychological Science.* Springer, Cham.

SJG
STRANCH, JENNINGS & GARVEY PLLC

K. Grace Stranch

ATTORNEY

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Grace Stranch joined Stranch, Jennings & Garvey (previously Branstetter, Stranch & Jennings) in 2014, and focuses her practice on class actions and labor and employment litigation, particularly union representation. Her legal work also includes consumer protection, election law, civil rights and personal injury.

She has been honored by the Tennessee Supreme Court as an Attorney for Justice for her commitment to pro bono work. In addition, the Tennessee Bar Association (TBA) has spotlighted her achievements as a young attorney, and the Nashville Bar Association (NBA) selected her for participation in its 2020 Leadership Forum.

Ms. Stranch sits on the diversity committees of the TBA and NBA, serves as the legislative and lobbying co-chair for the Lawyers' Association for Women, and is the co-president of the American Constitution Society, a leading progressive legal organization. She has led and participated in legal observing of protests for the National Lawyers Guild, assisted in founding the Tennessee Trial Lawyers Association's Women's Caucus, and is a member of the AFL-CIO's Lawyers Coordinating Committee.

She is also involved with the Women for Tennessee's Future: Young Leaders and the Women's Political Collaborative. Ms. Stranch is active in numerous environmental causes, including the Middle Tennessee Sierra Club, the Environmental Defense Fund, United Mountain Defense, the Appalachian Public Interest Environmental Law Conference, and environmental coalitions across the region.

Ms. Stranch earned her J.D. in 2014 from the University of Tennessee College of Law, where she helped found the American Constitution Society and served as president of the Environmental Law Association. She is a 2010 graduate of Rhodes College, where she was selected for a year-long study of globalization through the International Honors Program.

PRACTICE AREAS

- Complex Litigation
- Constitutional Law
- Employment and Discrimination Law
- Environmental Law
- General Litigation
- Labor Law

EDUCATION

- University of Tennessee College of Law (J.D., 2014)
  - American Constitution Society, Founder and President
  - Environmental Law Association, President
  - ENLACE, Event Coordinator
- Rhodes College (B.A., 2010)
  - International Honors Program

BAR ADMISSIONS

- Tennessee

EXPERIENCE

- Litigated on many notable large class actions, including Volkswagen, Anthem and opioid litigation
- Ongoing representation of unions in arbitration and before the National Labor Relations Board, campaign organization
- Regularly represents parties in discrimination, harassment and personal injury cases
- Routinely advises nonprofit and grassroots organizations on legal issues, including employment, environmental and civil disobedience laws
- Ongoing representation of political candidates and organizations concerning election protection and constitutional issues

PROFESSIONAL HONORS & ACTIVITIES

Awards

- ATHENA Young Professional Award Recipient (2020)
- New Leaders Council Fellow (2020)
- Nashville Bar Association, Leadership Forum Participant (2020)
- Tennessee Supreme Court, Attorney for Justice (2018, 2019)
- American Constitution Society's National Rookie Lawyer Chapter Chair of the Year (2018)
- Tennessee Supreme Court, Law Student for Justice (2014)

Memberships

- Tennessee Trial Lawyers Association (2018 – present)
- Nashville Bar Association (2014 – present)
- Tennessee Bar Association (2014 – present)
- American Constitution Society (2011 – present)
- National Lawyers Guild (2011 – present)

COMMUNITY INVOLVEMENT

- Harpeth Conservancy
  - Chief Executive Officer (2023 – present)
  - Chief Operating Officer (2021 – 2023)
- Tennessee Trial Lawyers Association
  - *Women's Caucus, Co-Founder (2019 – present)*
  - *Board Member and Membership Committee (2018 – 2019)*
- Tennessee Bar Committee for Racial and Ethnic Diversity (2018 – present)
- AFL-CIO's Lawyers Coordinating Committee member (2018 – present)
- American Constitution Society
  - *Next Generation Leader (2014 – present)*
  - *President and Co-Founder, Knoxville Chapter, (2016 – 2017)*
  - *Co-President, Nashville Chapter, 2019 – present*
- Women's Political Collaborative, Community Outreach Chair (2017 – present)
- Appalachian Public Interest Environmental Law Conference (2011 – present)
- Middle Tennessee Sierra Club
  - *Chair (2016 – 2019)*
  - *Vice Chair (2019 – present)*
- Nashville Bar Association Diversity Committee (2015 – 2020)
- United Mountain Defense
  - *Member (2011 – 2013)*
  - *Vice President (2013 – 2020)*
- Environmental Defense Fund Tennessee Ambassador (2018 – 2020)
- Lawyer's Association for Women
  - *Health and Wellness Co-Chair (2016 – 2018)*
  - *Legislative and Lobbying Co-Chair (2018 – 2019)*
- Women for Tennessee's Future: Young Leaders, Co-Chair of events (2017 – 2019)
- Spanish translator with the University of Tennessee College of Law at Centro Hispano (2014)

LANGUAGES

- English
- Spanish

Ellen A. Thomas

ATTORNEY

Ellen Thomas joined Stranch, Jennings & Garvey in 2023, and works throughout the firm's practice areas, including personal injury, mass torts and class action litigation.

Before joining SJ&G, Ms. Thomas worked at several law clinics and prominent law firms in the St. Louis area. She was most recently employed as a premises liability litigation attorney at Morgan & Morgan.

While earning her law degree, Ms. Thomas clerked at the Simon Law Firm, where she gained experience in intellectual property litigation and multidistrict litigation. She then spent the first two years of her career as an attorney at a top insurance defense firm before transitioning back to the plaintiff side.

Ms. Thomas is a 2014 graduate from Saint Louis University. She received her J.D. from Saint Louis University School of Law in 2020, with a concentration in international and comparative law. While in law school, Ms. Thomas served as a research assistant, president of the International Law Students Association, and as a teaching fellow mentor for first-year law students.

When not in the office, Ellen enjoys hiking, camping and cooking.

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PRACTICE AREAS

- Mass Torts
- Personal Injury
- Class Action and Complex Litigation
- General Civil Litigation

EDUCATION

- Saint Louis University School of Law (J.D., 2020)
- Saint Louis University (B.A., 2014)

CLERKSHIP

- Simon Law Firm

BAR ADMISSIONS

- Missouri
- Illinois
- U.S. District Court for the Eastern District of Missouri

Grayson Wells

ATTORNEY

Grayson Wells joined Stranch, Jennings & Garvey in early 2024. He specializes in complex civil litigation, including data breach and privacy class actions in both state and federal court.

Prior to joining the firm, Mr. Wells served as a litigation associate at the Nashville office of Bradley Arant Boult Cummings LLP. After earning his law degree from Indiana University Maurer School of Law in 2020, Mr. Wells served for two years as a law clerk to the Honorable Iain D. Johnston, U.S. District Judge for the Northern District of Illinois.

Before becoming a lawyer, Mr. Wells spent more than a decade as a network infrastructure engineer, both in the military and the private sector. In addition to his law degree, he received a master of science degree in cybersecurity risk management from Indiana University and a bachelor of science in computer science from Park University.

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PRACTICE AREAS

- Class Action
- Civil Litigation
- Privacy Litigation
- Cybersecurity Litigation

EDUCATION

- Indiana University Maurer School of Law (J.D., magna cum laude, 2020)
  - Executive Articles Editor, Indiana Law Journal
  - President and Founder, Cybersecurity and Privacy Law Association
  - Dean's Writing Fellow
  - Community Legal Clinic
- Indiana University (M.S. in Cybersecurity Risk Management, 2020)
- Park University (B.S. in Computer Science, summa cum laude, 2010)

CLERKSHIPS

- Hon. Iain D. Johnston, U.S. District Court, Northern District to Illinois, Western Division

BAR ADMISSIONS

- Missouri
- Tennessee
- U.S. District Court Western District of Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Eastern District of Tennessee
- U.S. District Court Eastern District of Missouri
- U.S. 6th Circuit Court of Appeals

MEMBERSHIPS

- American Bar Association
- Tennessee Bar Association
- Nashville Bar Association

PRESENTATIONS AND PUBLISHED WORKS

- "What's the Harm? Federalism, the Separation of Powers, and Standing in Data Breach Litigation," Comment, 96 Ind. L.J. 937, (Spring 2021)
- "Data Security, Professional Perspective – Complying with the FTC's Amended Safeguards Rule," Bloomberg Law (Robert Maddox, Erin Illman, Courtney Achee and Grayson Wells), (June 2023)

SJG

STRANCH, JENNINGS & GARVEY
PLLC

STRANCH, JENNINGS & GARVEY PLLC

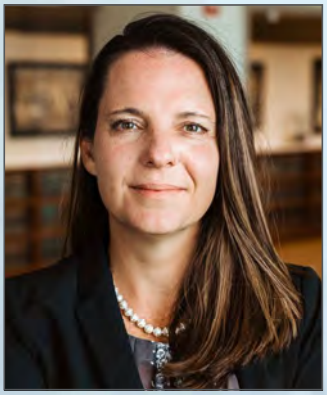
Appellate Practice

When a trial results in an unfavorable ruling, the next step often involves taking the case to a higher court in an effort to overturn or modify that ruling. This right is an important safeguard built into the legal system, and these cases require skilled attorneys who understand the nuances of appellate practice.

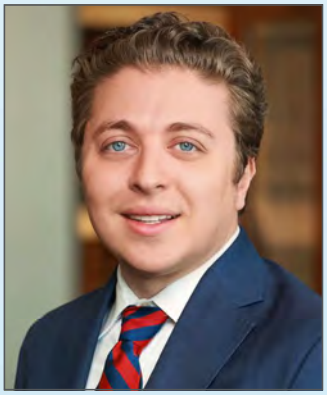
Stranch, Jennings & Garvey attorneys have earned the trust of appellate courts, allowing our team to advocate for clients more effectively than trial lawyers. Our firm approaches appeal cases with in-depth knowledge of legal principles and procedures, which are supplemented by effective arguments to convince the appellate court that the lower court's decision was incorrect. This requires thorough research of legal precedent, forceful oral arguments and persuasive brief writing.

Our practice has a successful history of assisting clients whose cases merit appeal to a higher court. If you have experienced an unfavorable court decision, we invite you to contact us.

ATTORNEYS IN THIS PRACTICE AREA



Karla M. Campbell



Michael Iadevaia

Andrew E. Mize

STRANCH, JENNINGS & GARVEY PLLC

Bank Fees

Some banks and credit unions routinely and improperly assess overdraft fees on customers' debit card transactions, even when those transactions do not overdraw customers' account balances, and charge multiple insufficient funds fees on single transactions. These deceptive practices result in significant and unforeseen costs for customers and violate state and federal fair business practice acts, as well as the terms of the account documents of these financial institutions. In addition to settling numerous overdraft fee disputes against banks and credit unions across the U.S., our firm has also obtained multi-million-dollar settlements against financial institutions for improper fee assessments.

- **In re: Darty v. Scott Credit Union, No. 19L0798** (St. Clair County, Illinois, Circuit Court, July 13, 2022). Nearly $5.6 million class action settlement representing 94% of damages after contested certification of consumer classes alleging improper assessment of overdraft and NSF fees.
- **In re: Jones et al. v. Lake Michigan Credit Union, No. 20-000240-CK** (Washtenaw County, Michigan, Circuit Court, Oct. 12, 2022). $7.5 million class action settlement, including fee refunds and debt forgiveness, for consumers alleging assessment of improper bank fees class settlement.
- **In re: Stillgood Prods., LLC v. Wesbanco Bank, Inc., No. 4:21-cv-00018-SEB-DML** (S.D. Indiana, Dec. 16, 2022), ECF No. 58. $6.45 million class action settlement, including refunds of bank fees challenged by consumer classes and debt forgiveness.
- **In re: Perkins v. Vantage Credit Union, No. 21SL-CC03736** (St. Louis County, Missouri, Circuit Court, Aug. 25, 2023). Preliminary approval of nearly $6.1 million bank fee class settlement, including changes to future fee assessment practices.
- **In re: Lowe et al. v. NBT Bank, No. 3:19-cv-01400-MAD-ML** (N.D. New York, Sep. 30, 2022), ECF No. 104. $5.7 million bank fee class action settlement.

ATTORNEYS IN THIS PRACTICE AREA

Kyle C. Mallinak

Nathan Martin

Marty Schubert

J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY PLLC

Business Litigation

When legal disputes arise, they can threaten your company's operations and reputation. The goal of business litigation is to resolve these issues before they damage your bottom line. Business disputes can include issues related to employment matters, regulatory compliance, contracts and shareholder disputes.

At Stranch, Jennings & Garvey, we are well-versed in the complex challenges businesses face. Our team addresses business disputes with a multi-faceted process, beginning by thoroughly analyzing your case, legal standing and potential risks. We then develop a robust legal strategy designed to protect your interests and achieve positive results.

Our expertise in business litigation includes a variety of disputes, such as:

Antitrust and Competition Litigation

Antitrust laws, which are also referred to as competition laws, promote fair and open competition across different industries and markets. They also monitor monopolistic practices, price discrimination, price-fixing, merger plans and bid rigging. These laws protect consumers by challenging anti-competitive business practices.

Contract Disputes

Our firm has a proven track record of success in contract litigation, successfully representing clients facing non-performance, breaches of contract or disputes over terms. We protect your interests by resolving contract disputes efficiently to minimize disruptions to your operations.

Employment and Labor Disputes

We represent both employees and employers when workplace conflicts arise. We address issues such as discrimination, wrongful termination, wage disputes and labor law compliance.

Intellectual Property Disputes

Protecting your intellectual property (IP) is essential for maintaining a competitive advantage. Our team is well-versed in all aspects of IP law, including licensing agreements, patents, copyrights, trade secrets and trademarks. Whether you are an established corporation, a startup or an individual, our knowledgeable attorneys can meet your needs.

Real Estate Litigation

Our attorneys handle real estate disputes related to zoning issues, property ownership, construction contracts, commercial leases, landlord-tenant issues and property rights. Our efforts can help you protect your properties and investments.

Shareholder and Partnership Disputes

When shareholder disputes, partnership conflicts or breaches of fiduciary duty occur, we assist in resolving issues efficiently to preserve the value and integrity of your business.

ATTORNEYS IN THIS PRACTICE AREA

Kyle C. Mallinak

Emily Schiller

STRANCH, JENNINGS & GARVEY PLLC

Car Crashes

According to the National Highway Traffic Safety Administration, there were an estimated 6.1 million police-reported traffic crashes in 2021 (the last year for which data is available), a 16 percent increase over the 5.25 million crashes that occurred in 2020. Individuals injured in 2021 as a result of traffic crashes increased by 9.4 percent over the 2.28 million injuries in 2020.

Car crashes were the second-leading cause of preventable death in the U.S. in 2021 for individuals between the ages of 1 and 54, according to the Centers for Disease Control and Prevention (CDC). Nearly 43,000 fatalities occurred in 2021, a 10 percent increase over 2020's approximately 39,000 fatalities.

Victims of another driver's negligence have the right to seek compensation for injury or death. For decades, our firm has successfully represented individuals who seek to recover damages from car crashes caused by other drivers.

- Davidson County Circuit Court (Nashville, Tennessee) jury trial verdict of $122,755.46 following a top pre-trial offer of $30,000 (May 2021) (Regina Enochs v. Michah Bradley, Davidson County Circuit Court, Docket No. 19C235). Isaac Kimes, Stranch, Jennings & Garvey member, was First Chair Trial Lawyer.
- Davidson County Circuit Court (Nashville) bench trial verdict of $205,274.24 following zero offers made prior to trial (January 2022). (Frieda Woolridge v. Mid-Cumberland Human Resource Agency et al., Davidson County Circuit Court, Docket No. 19C482). Member Isaac Kimes was First Chair Trial Lawyer.
- $300,000 policy limits settlement on auto-wreck case (April 2023).
- $500,000 policy limits settlement on auto-wreck case (July 2023).
- $450,000 settlement on contested liability auto v. pedestrian case (July 2023).
- $200,000 settlement on auto-wreck case (September 2023).
- $755,000 settlement on premises liability case (November 2023).
- $650,000 settlement on contested liability trucking case (December 2023).

ATTORNEYS IN THIS PRACTICE AREA

Hon. John (Jack) Garvey

Isaac Kimes

J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY PLLC

Civil Litigation

Civil litigation is a broad legal term that can involve a wide range of disputes between entities, businesses, corporations or individuals. These cases involve legal action taken by one party (the plaintiff) against another (the defendant) to resolve a conflict. Plaintiffs seek specific remedies for harm suffered, including financial compensation.

Civil litigation is different from criminal law, which involves the prosecution of individuals accused of breaking the law. It also differs from complex litigation, which involves intricate legal issues, multiple parties and multiple jurisdictions.

Disputes in civil litigation cases can include, but are not limited to:

- **Anti-trust litigation**
- **Contract disputes**
- **Employment claims**
- **Family law matters**
- **Landlord/tenant disputes**
- **Medical malpractice**
- **Personal injury**
- **Product liability**
- **Property and real estate disputes**

Civil litigation cases take a multistep legal process, beginning with the filing of a complaint by the plaintiff against the defendant. The next step is discovery when both parties share documents and evidence related to the case. Pre-trial negotiations follow, during which our attorneys work diligently to negotiate a favorable settlement before proceeding to trial.

If you are seeking justice in a civil litigation matter, we will fight for your rights and bring you the compensation you deserve.

ATTORNEYS IN THIS PRACTICE AREA


Karla M. Campbell


Elizabeth Fischer


Colleen Garvey


Kyle C. Mallinak


Nathan Martin


Michael G. Stewart


K. Grace Stranch

STRANCH, JENNINGS & GARVEY
PLLC

Civil Rights

Stranch, Jennings & Garvey is passionate about safeguarding the principles of equality and justice enshrined in the Constitution of the United States. We have a long track record of successfully representing clients whose civil rights have been violated.

Civil rights cases involve a deep understanding of constitutional law, court procedures and civil liberties. These complex cases require thorough investigation and evidence-gathering, as well as strong advocacy in both negotiation and litigation.

The rights guaranteed to us by the nation's founding document and federal laws are the cornerstone of our democracy. Ensuring that everyone is treated equally and fairly under the law, regardless of their circumstances or backgrounds, these privileges include basic rights, fundamental liberties and protections, such as:

- **Due process**
- **Equal protection**
- **Freedom of religion**
- **Freedom of the press**
- **Freedom of speech**
- **Protection against discrimination**
- **Protection from unreasonable search and seizure**
- **Voting rights**

Your civil rights matter and our team is here to protect them. If you believe your civil rights have been violated, contact us today and take the first step toward securing the equality and justice you deserve.

ATTORNEYS IN THIS PRACTICE AREA

Andrew E. Mize

STRANCH, JENNINGS & GARVEY PLLC

Class Action

Our firm has a long record of success representing plaintiffs in a substantial number of class action and mass tort cases in state and federal courts throughout the U.S. These cases include some of the most complicated litigation the courts have seen against some of the largest multinational companies. Through these cases, we defend the rights of clients harmed by defective products, pharmaceuticals, industry negligence or illegal practices.

Our attorneys have served as class counsel and as lead, co-lead and liaison counsel in landmark cases and national class actions involving data breach, wage and hour violations, anti-competitive practices, illegal generic drug suppression and bid rigging, defective products and violations of the Telephone Consumer Protection act.

- **In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB** (N.D. California) (J. Breyer). Founding and Managing Member J. Gerard Stranch IV served on the plaintiffs' steering committee in a coordinated action consisting of nationwide cases of consumer and car dealerships. This action alleged that Volkswagen AG, Volkswagen Group of America and other defendants illegally installed so-called "defeat devices" in their vehicles, which allowed the cars to pass emissions testing but enabled them to emit nearly 40 times the allowable pollution during normal driving conditions. In October 2016, the court granted final approval to a settlement fund worth more than $10 billion to consumers with two-liter diesel engines, and in May 2017, the court granted final approval to a $1.2 billion settlement for consumers with three-liter diesel engines, and a $357 million settlement with co-defendant Bosch.

- **In re: Davidson v. Bridgestone/Firestone, Inc. and Ford Motor Co. No. 00-C2298** (Davidson Circuit, Tennessee) (Soloman/Brothers). The firm served as lead counsel in a nationwide class action against Bridgestone/Firestone, Inc. and Ford Motor Co. concerning defective tires. A settlement valued at $34.4 million was reached in conjunction with a companion case in Texas.

- **In re: Cox v. Shell Oil et al., Civ. No. 18844** (Weakley Chancery, Tennessee) (Judge Malon). The firm intervened in a consumer class action composed of all persons throughout the United States who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that was valued at $1 billion.

- **In re: Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6** (W.D. Missouri). The firm served on the executive committee in a nationwide consumer class action composed of all owners or purchasers of a defective hot water heater. A settlement was reached that provided 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages.

- **In re: Alpha Corp. Securities litigation.** Founding and Managing Member J. Gerard Stranch IV was appointed as co-lead counsel. The case resulted in a $161 million recovery for the class.

ATTORNEYS IN THIS PRACTICE AREA

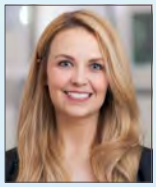

Elizabeth Fischer


Colleen Garvey


Hon. John (Jack) Garvey


Michael Iadevaia


Kyle C. Mallinak


Janna Maples


Nathan Martin


Andrew E. Mize


Emily E. Schiller


Miles M. Schiller


Marty Schubert


Michael G. Stewart


J. Gerard Stranch IV


James G. Stranch III


K. Grace Stranch


Grayson Wells

STRANCH, JENNINGS & GARVEY PLLC

Complex Litigation

Complex litigation cases demand expertise, precision and unwavering commitment to ensure clients' interests are protected. Our team at Stranch, Jennings & Garvey specializes in complex litigation and understands how to navigate the intricate labyrinth of complicated legal disputes.

Complex litigation can involve federal and state laws and multiple jurisdictions. The issues litigated in these cases are often elaborate, with extensive evidence, numerous parties and multifaceted legal arguments. Such cases can encompass a broad spectrum of legal matters that include but are not limited to:

- **Antitrust and competition law**
- **Class action lawsuits**
- **Employment and labor disputes**
- **Environmental litigation**
- **Healthcare litigation**
- **Intellectual property disputes**
- **Product liability**
- **Securities fraud**

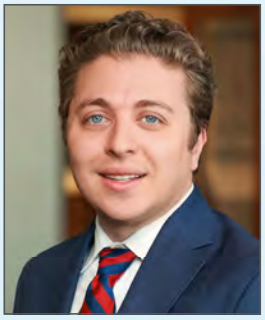
Complex litigation cases progress through several stages, including investigation, discovery, motions, trial and potential appeals. Extensive legal research, a deep understanding of the law and expert testimony are often required. Our attorneys pride themselves on their ability to manage the complexities of these cases through thorough preparation, customized strategies and effective communication.

Stranch, Jennings & Garvey attorneys have successfully represented clients in numerous complex litigation cases across various industries and jurisdictions. Contact us today and let us put our expertise to work for you.

ATTORNEYS IN THIS PRACTICE AREA

Elizabeth Fischer

Colleen Garvey



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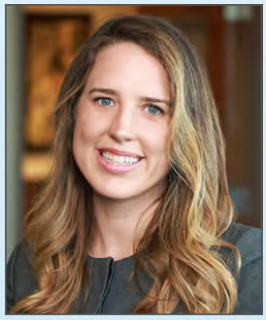
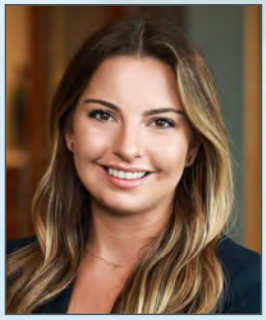


K. Grace Stranch



Ellen A. Thomas

STRANCH, JENNINGS & GARVEY PLLC

Condemnation & Municipal Property Disputes

Have you come into conflict with a municipality regarding the use or acquisition of your property for public purposes? If so, you need a skilled legal team on your side to protect your interests. Such conflicts can include zoning and land use regulations, as well as the construction of public infrastructure projects like parks, utilities and highways.

Condemnation and municipal property disputes may involve the following legal and procedural issues:

- **Assessment of just compensation**
- **Eminent domain challenges**
- **Environmental impact assessments**
- **Procedural deadlines and requirements**
- **Property values**
- **Regulatory compliance**
- **Zoning and land use disputes**

Our dedicated attorneys at Stranch, Jennings & Garvey guide clients through the complex web of condemnation and municipal property disputes through legal advocacy, strategic counsel and expert litigation. We provide guidance throughout the entire legal process, from notice of condemnation until the issue is resolved. We strive to secure favorable settlements and fair compensation.

Your property rights matter. Contact us today to ensure they remain protected.

STRANCH, JENNINGS & GARVEY PLLC

Constitutional Law

Constitutional Law focuses on applying and interpreting provisions of the United States Constitution. This area of law protects fundamental rights, limits government power, establishes the relationship between citizens and government, and establishes the framework of democracy.

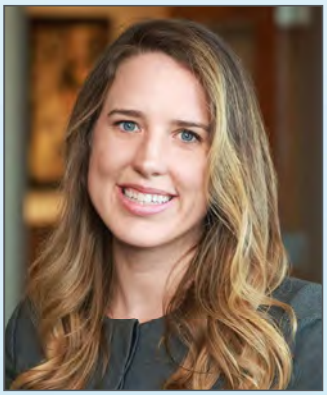
It encompasses a wide range of challenges and legal issues, including:

- **First Amendment Rights**
- **Second Amendment Rights**
- **Fourth Amendment Rights**
- **Fifth Amendment Rights**
- **Privacy Rights**
- **Due Process**
- **Equal Protection**

Our team consists of expert litigators who have successfully argued cases at all levels of the judiciary. We are devoted to protecting the rights and liberties guaranteed by the Constitution. Key to our Constitutional Law work is comprehensive analysis and advice, allowing our clients to understand the complexities they face.

If you or your organization are facing a constitutional law issue, we can be your advocates in the pursuit of justice. Contact us today to schedule a consultation.

ATTORNEYS IN THIS PRACTICE AREA



K. Grace Stranch

STRANCH, JENNINGS & GARVEY PLLC

Consumer Protection

The focus of Consumer Protection is to safeguard the rights and interests of consumers against unfair or fraudulent practices in the marketplace. Our attorneys at Stranch, Jennings & Garvey take pride in our client-centric approach and aggressive advocacy. In addition to our legal expertise, we empower our clients with knowledge about their rights and options, enabling them to make informed decisions.

Consumer Protection encompasses a wide range of issues, including:

- **Advertising and marketing practices**
- **Bankruptcy**
- **Deceptive trade practices**
- **Faulty products**
- **Financial services, including predatory lending**
- **Foreclosure**
- **Inaccurate credit reporting**
- **Privacy and data protection**
- **Product safety**
- **Scams**
- **Securities fraud**
- **Warranties**

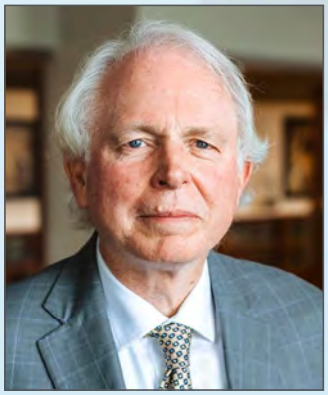
Consumer Protection laws exist to deter businesses and corporations from pursuing unethical or dangerous practices. These laws help keep these entities honest and thus play an important role in a reliable marketplace. Violation of these laws hurts individual consumers and can also harm the overall economy.

As a consumer, you have rights that deserve to be protected. If you feel that you have been the victim of unsafe products, fraud, scams or deceptive practices, our attorneys are here to listen and provide the legal advice you need.

ATTORNEYS IN THIS PRACTICE AREA

Elizabeth Fischer

Kyle C. Mallinak



James G. Stranch III

STRANCH, JENNINGS & GARVEY PLLC

Election Law

Elections are vital to our democracy. Election law ensures the integrity of elections, while safeguarding the rights of voters, candidates and political parties. It is a constantly changing legal field that focuses on the legal principles, regulations and rules governing the democratic process at the local, state and federal levels.

At Stranch, Jennings & Garvey, our experienced attorneys are committed to protecting the values that are the cornerstone of our society. We provide expert legal representation to organizations, political campaigns and individuals in a variety of ways, including:

- **Ballot access**
- **Campaign compliance**
- **Campaign strategy**
- **Election disputes**
- **Legal education and advocacy**
- **Litigation support**
- **Redistricting and apportionment**
- **Voter eligibility**

At a time when the electoral landscape is constantly changing, having seasoned Election Law attorneys by your side is crucial. The team at Stranch, Jennings & Garvey believes the power of democracy is in the hands of its citizens, and that a fair and transparent electoral process is crucial.

If you need assistance with campaign compliance, need an expert in election matters or believe your voting rights have been violated, we are here to advocate for your interests. Together, we can make a difference.

ATTORNEYS IN THIS PRACTICE AREA

Nathan R. Ring

Marty Schubert

STRANCH, JENNINGS & GARVEY PLLC

Employment & Discrimination Law

For decades, Stranch, Jennings & Garvey attorneys have delivered personalized legal solutions to individuals who have experienced discrimination in the workplace. We are proud to stand with our clients, protect their rights, and provide solutions that lead to justice and equality.

The purpose of employment and discrimination law is to ensure that all employees are treated equitably and fairly regardless of their beliefs, backgrounds or characteristics. This specialized area of legal practice focuses on protecting individual rights, and addresses harassment, unfair treatment and discrimination, which can occur in a variety of ways, including:

- **Age**
- **Disability**
- **Gender**
- **National origin**
- **Race**
- **Religion**
- **Sexual orientation**

Issues addressed by our attorneys in this practice area include:

- **Bias hiring, promotion, compensation or job assignment**
- **Retaliation**
- **Wage and hour disputes**
- **Workplace harassment**
- **Wrongful termination**

At Stranch, Jennings & Garvey, we are dedicated to protecting the rights of our clients through legal expertise, strong advocacy, education and empowerment. You don't have to face workplace discrimination alone. Our attorneys are ready to fight for your rights and compassionately guide you through the legal process.

ATTORNEYS IN THIS PRACTICE AREA

Karla M. Campbell

Michael Iadevaia

James G. Stranch III

K. Grace Stranch

Nathan R. Ring

STRANCH, JENNINGS & GARVEY PLLC

Environmental Law

Environmental law is an ever-evolving field that encompasses a vast array of legal principles, statutes and regulations developed to address environmental concerns and safeguard the environment. At Stranch, Jennings & Garvey, we are dedicated to providing comprehensive legal solutions for our clients as they navigate the intricate web of environmental regulations and issues.

Environmental law addresses issues such as conservation, land use planning and pollution control. It also extends to matters involving air quality, climate change mitigation, hazardous waste management and water resources. Our attorneys have the expertise to guide you through this wide range of matters, including:

Climate Change Mitigation

We help clients develop strategies for adapting to changing environmental conditions, reducing greenhouse gas emissions and staying ahead of evolving regulations.

Environmental Due Diligence

We assist clients with conducting due diligence to assess potential risks and liabilities in real estate acquisitions or mergers.

Environmental Impact Assessments

We provide our clients with impact assessments to discover the potential environmental consequences of proposed projects.

Litigation and Dispute Resolution

When environmental disputes arise, such as a contamination issue or regulatory enforcement matter, our attorneys will advocate for you in court and negotiate favorable settlements.

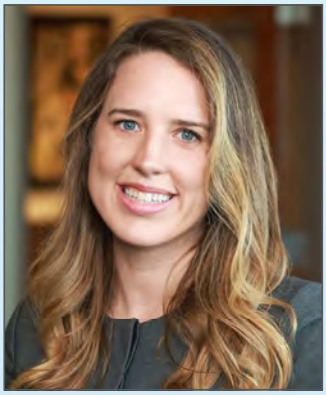
Permitting and Licensing

We offer guidance in navigating complex licensing and permitting processes. Our attorneys can help you secure the necessary licenses and permits to ensure your project is in compliance with environmental laws.

Regulatory Compliance

Remaining in compliance with federal, state and local environmental requirements is essential for individuals and businesses. Through analysis and guidance, our attorneys help ensure your project adheres to all regulations.

ATTORNEYS IN THIS PRACTICE AREA



K. Grace Stranch

STRANCH, JENNINGS & GARVEY PLLC

ERISA Trust Funds

Founding Member James G. (Jim) Stranch III and his wife, Judge Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals, were early pioneers of 401(k) ERISA (Employee Retirement Income Security Act) litigation.

Our attorneys have represented clients and served as lead and co-lead counsel in a wide range of ERISA matters, including Taft-Hartley health and welfare funds JATC apprenticeship funds, defined contribution funds and defined benefit pension funds. In addition, we advise ERISA plan fiduciaries on a variety of administration and compliance issues; establish employee benefit trusts and plans; handle administrative claims and appeals for LTD, STD and other benefits; assist with Department of Labor audits, interpretations, investigations and enforcement; and numerous other issues.

- **In re: Nortel Networks Corp. "ERISA" Litigation, No. 3:03-MD-1537** (M.D. Tenn.) (Nixon). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Nortel Network Corp. for violation of duties owed under ERISA. Court approved a settlement that provided a minimum recovery of $21.5 million plus access to additional monies held by others.
- **In re: Qwest Savings and Investment Plan ERISA Litigation, No. 02-RB-464** (D. Colo.) (Blackburn). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Qwest Communications and the Trustee, Bankers Trust/Deutsche Bank, for violation of duties owed under ERISA. A settlement was reached which provided a $33 million cash payment from Qwest Communications to the plan for participants, a $4.5 million cash payment from Bankers Trust/Deutsche Bank to the plan for participants, a $20 million guarantee from Qwest Communications from a parallel securities action with the opportunity of more cash from the parallel securities action, and an undetermined amount of cash from a distribution through the U.S. Securities and Exchange Commission Fair Fund established pursuant to Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. §§7201 et seq.
- **In: re Global Crossing Ltd. ERISA Litigation, No. 02 Civ. 7453** (S.D. N.Y.) (Lynch). One of several counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Global Crossing for violation of duties owed under ERISA. The settlement reached provided a $79 million cash payment to the Plan for participants and allowed Plan to recover in parallel securities action.
- **In re: Xcel Energy, Inc. ERISA Litigation Civ. 02-2677** (D. Minn.) (Doty). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an $8.6 million cash payment to the Plan for participants, lifted stock restrictions in the Plan with a value between $38 million and $94 million, and allowed the Plan to recover in parallel securities action.
- **In re: Hitchcock v. Cumberland University 403(b) DC Plan, 851 F.3d 522** (6th Cir. 2017). As a result of this case, the university returned hundreds of thousands of dollars to employees' retirement accounts that it had wrongfully withheld. The firm succeeded in setting the precedent that plan participants can take legal claims, such as breach of fiduciary duty, straight to the courts, without having to exhaust administrative remedies through the plan, an issue of first impression in the Sixth Circuit.
- **In re: Delphi Corp. ERISA Litigation (Polito v. Delphi Corporation, et al.), No. 05-cv-71249** (E.D. Mich.). Lawsuit brought on behalf of participants in Delphi pension plans alleging that plan fiduciaries breached their duties and responsibilities under ERISA by, among other things, failing to investigate the prudence of an investment in Delphi stock and by making misrepresentations about the company's accounting practices for off-balance sheet financing and vendor rebates dating back to 1999.
- **In re: Providian Financial Corp. ERISA Litigation, No. C 01-5027** (N.D. C.A.) (Breyer). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of ERISA duties. Settlement provided an $8.6 million cash payment to the plan for participants, lifted company stock sales restrictions in the plan valued between $3.66 million and $5.85 million, and allowed plan to recover in a parallel securities action.
- **In re: Montana Power ERISA Litigation, No. 4:02-0099** (D. Mont.) (Haddon). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Montana Power, Touch America and Northwestern Energy and against the Trustee, Northern Trust, for violation of duties owed under ERISA. Settlement was reached that provided a minimum recovery of $4.9 million plus access to additional monies held by others.

ATTORNEYS IN THIS PRACTICE AREA

Karla M. Campbell

R. Jan Jennings

Nathan R. Ring

James G. Stranch III

STRANCH, JENNINGS & GARVEY PLLC

Labor Law

For more than seven decades, Stranch, Jennings & Garvey attorneys have been at the forefront of labor law, proudly advocating for the rights of both individual workers and labor unions. We take immense pride in our commitment to offering comprehensive legal support to working men and women.

We have successfully litigated cases across all judicial levels, including the United States Supreme Court. Our expertise extends to the National Labor Relations Board (NLRB) and the Department of Labor.

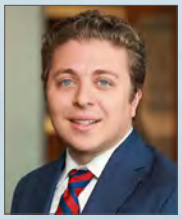
Stranch, Jennings & Garvey attorneys practice a broad spectrum of labor law matters, providing our clients with trustworthy counsel and formidable representation as we fight to uphold their rights. Our services include:

- **Arbitration and grievance resolution**
- **Collective bargaining agreements**
- **Contract negotiation**
- **Department of Labor compliance and investigations**
- **Employment discrimination**
- **Federal court litigation**
- **NLRB proceedings**
- **Restrictive covenants**
- **Severance agreementsa**
- **Union-related matters**

From negotiating complex collective bargaining agreements or tackling issues related to employment discrimination to resolving arbitration disputes or grievances, our attorneys have the experience and knowledge to ensure injustices are rectified and our clients' rights are protected. We are proud of our many decades of supporting hardworking men and women, and we will continue to stand as a trusted partner for unions and workers.

ATTORNEYS IN THIS PRACTICE AREA


Karla M. Campbell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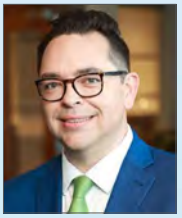

Nathan R. Ring

STRANCH, JENNINGS & GARVEY PLLC

Labor Unions

Since our firm was founded more than seven decades ago, we have provided dependable representation for union clients in all employer-employee relations legal matters. Our attorneys are experienced in issues concerning the National Labor Relations Act, ERISA, Title VII, and wage and hours laws such as the FLSA. Our representation ranges from construction, industrial and public sector unions to district and joint councils, State Federations of Labor and Central Labor Councils.

Across the years, we have helped countless clients with union-related challenges, such as collective bargaining, contract negotiation, enforcement of labor-related claims via NLRB or federal court litigation, grievance mediation, restrictive covenant issues, severance agreements and numerous additional union matters.

- **In re: Thompson v. North American Stainless LP.** Our firm helped expand Title VII retaliation protection with this case, which reached the U.S. Supreme Court. The court ruled that North American Stainless' firing of plaintiff employee Eric Thompson violated Title VII and that he could sue because he fell within the zone of interests protected by Title VII.
- **In re: International Brotherhood of Teamsters, Local 651 v. Philbeck, 5:10-cv-105-DCR** (E.D.KY 2018). The firm successfully litigated action requesting a temporary restraining order and permanent injunction by the local union to secure control of the Facebook page belonging to the union.
- **In re: Matthew Denholm, RD of NLRB Region 9 v. Smyrna Ready Mix Concrete, LLC, 5:20-cv-320-REW** (E.D.KY 2019). The firm successfully litigated NLRB charges, culminating in a complaint for injunctive relief, where the federal district court ordered the reinstatement of seven drivers and their plant manager and the reopening of a concrete plant.
- **In re: Zeon Chemicals, L.P. v. UFCW Local 72-D, 949 F.3d 980** (6th Cir. 2020). The firm successfully appealed a district court's reversal of the union's arbitration victory for an unjustly terminated member who was ordered reinstated with full back pay.

ATTORNEYS IN THIS PRACTICE AREA

Karla M. Campbell

R. Jan Jennings

Nathan R. Ring

J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY PLLC

Mass Torts

Mass tort lawsuits occur when numerous individuals have been injured or harmed by the same act of negligence of another party, from faulty prescription drugs or medical devices to toxic contamination or defective consumer products. These types of claims provide the compensation each plaintiff needs, rather than a settlement that is split with the other plaintiffs.

Stranch, Jennings & Garvey has the experience and resources to confront the corporations responsible for the harm inflicted on plaintiffs. Our attorneys are well-versed in the necessary strategies for negotiating and litigating mass tort lawsuits, and have successfully represented numerous clients in claims against companies and corporations. Our efforts have produced significant monetary recovery and/or benefits for plaintiffs from many jurisdictions.

- **In re: Depo-Provera (Depot Medroxyprogesterone Acetate) Products Liability Litigation, 3:25-md-3140 (N.D. Florida, Pensacola Division).** SJ&G attorneys Colleen Garvey and Janna Maples were appointed to key leadership positions in this litigation, which alleges that Pfizer Inc. failed to adequately warn patients and doctors about the risk of brain tumors associated with the hormonal contraceptive drug Depo-Provera. Garvey was appointed to the Law and Briefing Subcommittee, which is a subcommittee of the Steering Committee. Maples was appointed to the Electronically Stored Information ("ESI") and Discovery Subcommittee, which is also a subcommittee of the Steering Committee.

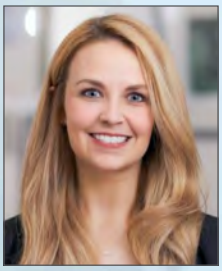
- **In re: National Prescription Opiate Litigation.** Our firm's Founding and Managing Member J. Gerard Stranch IV was appointed as class counsel for the negotiation class in the multi-district national prescription opioid litigation (MDL 2804) in Cleveland, Ohio. Plaintiffs alleged that the manufacturers of prescription opioids grossly misrepresented the risks of long-term use of those drugs for persons with chronic pain, and distributors failed to properly monitor suspicious orders of those prescription drugs — all of which contributed to the current opioid epidemic. National settlements of up to $26 billion were reached in 2021 to resolve litigation brought by states and local political subdivisions against three pharmaceutical distributors (McKesson, Cardinal Health and AmerisourceBergen) and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson. Hon. Judge (ret.) John "Jack" Garvey, the founding member who leads our St. Louis office, was instrumental in securing a settlement with these companies for Missouri's counties and cities in the amount of $183.2 million, as part of a $458 million overall settlement for the state.

ATTORNEYS IN THIS PRACTICE AREA


Elizabeth Fischer


Colleen Garvey


Hon. John (Jack) Garvey


Janna Maples


Michael G. Stewart


J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY PLLC

Medical Malpractice

Medical malpractice occurs when a healthcare professional's actions, or failure to act, do not meet the standard of care of their profession. This can cause harm to a patient in the forms of emotional distress, physical injuries or financial burdens. In the most extreme cases, medical malpractice can result in the death of a patient.

Not all medical mistakes constitute malpractice. To be considered malpractice, the following factors must generally be present:

- **The healthcare provider owed the patient a duty of care.**
- **The decisions or actions of the provider failed to meet the standard of care.**
- **The provider's actions were the direct cause of harm or injury to the patient.**
- **The patient suffered physical, emotional or financial damages.**

Medical malpractice incidents can occur in various stages of treatment and different healthcare settings, and can include:

- **Failure to obtain informed consent**
- **Medication errors**
- **Misdiagnosis or delayed diagnosis**
- **Negligence during pregnancies or birth injuries**
- **Nursing home abuse & neglect**
- **Surgical errors**

If you are the victim of medical malpractice, you have the right to seek legal recourse. Stranch, Jennings & Garvey attorneys have achieved successful results for our clients. We are dedicated to helping patients who have experienced medical malpractice move toward healing and recovery.

ATTORNEYS IN THIS PRACTICE AREA

Isaac Kimes

STRANCH, JENNINGS & GARVEY
PLLC

Necrotizing Enterocolitis (NEC)

Stranch, Jennings & Garvey attorneys understand the serious challenges and heartache families face when dealing with the dangerous effects of Necrotizing Enterocolitis (NEC). Our team is dedicated to providing expert and compassionate legal representation to families whose lives have been impacted by NEC.

According to the Cleveland Clinic, NEC is a serious gastrointestinal problem occurring mostly in premature babies. The condition causes intestinal tissue to die and can lead to a hole in the intestine. Bacteria leaking through the hole can cause serious abdominal infections. Some infants require surgery to remove the damaged intestine.

While some infants experience mild cases of NEC, others face life-threatening symptoms. The condition usually develops within two to six weeks of birth. It typically affects babies who are born before the 37th week of pregnancy, fed through a tube in the stomach or weigh less than 5.5 pounds at birth. Babies weighing less than two pounds at birth are at the greatest risk.

NEC has a variety of causes, including medical malpractice. Symptoms may come on suddenly or appear over a few days and may include:

- **Abdominal pain and swelling**
- **Changes in heart rate, blood pressure, body temperature and breathing**
- **Diarrhea with bloody stool**
- **Green or yellow vomit**
- **Lethargy**
- **Refusing to eat and lack of weight gain**

An estimated 80 percent of babies diagnosed with NEC survive. However, some survivors face long-term health problems, including:

- **Peritonitis – an abdominal infection that can lead to sepsis**
- **Intestinal stricture – a narrowing of the intestine that could require surgery**
- **Short bowel (short gut) syndrome – a condition making it difficult for the body to absorb fluids and nutrients, requiring lifelong treatment for the child to ensure proper nutrition**
- **Growth failure and development delays**

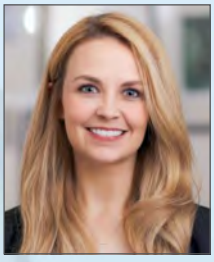
Our team understands that NEC is a frightful experience, and we approach each case with compassion and sensitivity. We will stand with your family and provide you with the legal guidance you need. Contact us today, and let our attorneys guide you through a journey for justice.

- **In re: Gill v. Abbott Laboratories, No. 2322-CC01251** (22nd Judicial Circuit Court of Missouri). A closely watched necrotizing enterocolitis (NEC) baby formula bellwether trial culminated in a $495 million judgment against Abbott Laboratories, a verdict that could affect many other lawsuits awaiting litigation in state and federal courts throughout the U.S. The plaintiff brought the claim on behalf of her minor child, who developed NEC after being given Similac and/or Enfamil cow's milk-based products following her premature birth. The infant was forced to undergo extensive surgery and has continued to suffer long-term health consequences. The lawsuit asserted that, "despite scientific consensus that defendants' cow's milk-based products present a dire threat to the health and development of preterm infants, defendants have made no changes to their products or the products' packaging, guidelines, instructions, or warnings. Instead, defendants have continued to sell their unreasonably dangerous products to unsuspecting parents and healthcare providers, generating huge profits as a result."

ATTORNEYS IN THIS PRACTICE AREA

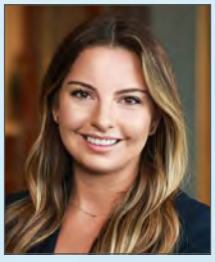

Colleen Garvey


Hon. John (Jack) Garvey


Janna Maples


Michael G. Stewart


J. Gerard Stranch IV


Ellen Thomas

STRANCH, JENNINGS & GARVEY
PLLC

Nursing Home Abuse & Neglect

Deciding to place a loved one in a nursing home is a difficult decision. When doing so, you are entrusting their well-being to professionals who are responsible for providing your family member with the care and the attention he or she deserves. If this trust is not honored due to possible abuse or neglect, families are faced with litigation to hold the offenders accountable.

Stranch, Jennings & Garvey attorneys are experienced in defending the rights of nursing home residents who have suffered abuse or neglect. We understand the physical and emotional pain such incidents can have on individuals and their families, and we are here to help guide you during such a challenging time.

Nursing home abuse & neglect can involve a range of actions and behaviors that result in distress or harm to residents of long-term care facilities, including:

- **Emotional and psychological abuse**
- **Fall accidents**
- **Financial exploitation**
- **Inadequate staffing**
- **Medical malpractice**
- **Neglect**
- **Physical abuse**
- **Sexual abuse**
- **Wandering and elopement**

Stranch, Jennings & Garvey attorneys are dedicated to protecting the dignity of nursing home residents. We are here to pursue justice for those who have been neglected or abused, and will be fierce advocates for your loved one's rights.

ATTORNEYS IN THIS PRACTICE AREA

Isaac Kimes

STRANCH, JENNINGS & GARVEY
PLLC

Opioid Litigation

The opioid epidemic is a public health crisis that has ravaged communities in the United States and around the world. The roots of this crisis can be traced back to the late 1990s, when misleading marketing practices by pharmaceutical companies contributed to the over-prescribing of opioid painkillers.

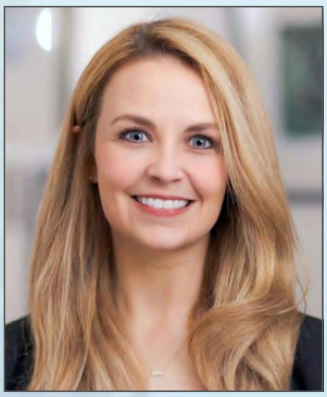
Millions of lives have been affected by addiction and death. The crisis has also caused a significant financial burden on society, straining social services, law enforcement agencies and healthcare systems. The experienced litigators at Stranch, Jennings & Garvey recognize the urgency of addressing this crisis and holding pharmaceutical companies, medical professionals and other responsible entities accountable.

J. Gerard Stranch IV, managing and founding member, served as the lead trial attorney in the Sullivan Baby Doe case (originally filed as Staubus v. Purdue) against opioid producer Endo Pharmaceuticals. The case led to a $35 million settlement agreement, which is the largest per capita settlement by any prosecution with Endo to date.

Opioid litigation can take various forms, including lawsuits filed by states, municipalities or individuals against pharmaceutical manufacturers and distributors and healthcare providers. Some lawsuits are consolidated into class actions, allowing groups of affected individuals to seek compensation collectively.

Stranch, Jennings & Garvey's attorneys are committed to helping those affected by the opioid epidemic understand their legal rights. We are dedicated to providing expert guidance and strategy to individuals and governments as they navigate the legal steps required for successful opioid litigation.

ATTORNEYS IN THIS PRACTICE AREA



Janna Maples

J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY
PLLC

Personal Injury

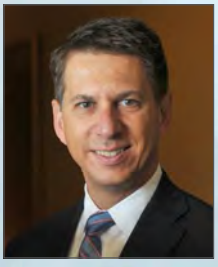
For many years, our firm has effectively represented individuals who have been harmed or injured due to third-party carelessness or misconduct. These cases include medical negligence, faulty medical devices, dangerous medications, unsafe property conditions, automobile accidents, and numerous other acts of negligence or disregard for safety that have led to injury and death.

Stranch, Jennings & Garvey proudly works to preserve and restore the rights of clients who have experienced harm due to others' actions, and our firm seeks justice for and successfully obtains full and fair compensation for these victims and their families through litigation, mediation and arbitration.

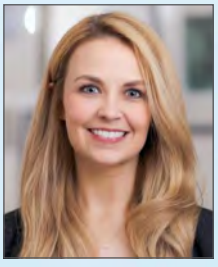
- **In re: Sullivan Baby Doe case** (originally filed as Staubus v. Purdue) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a $35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date.
- **In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation,** resulting in approximately $17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever.
- **In re: Orrick v. GlaxoSmithKline,** St. Louis City Circuit #1322-CC00079 (Paxil litigation).
- **In re: Jefferson County v. Williams,** #20JE-CC00029 (opioids litigation).
- Davidson County Circuit Court bench trial verdict of $205,274 following zero offers made prior to trial (January 2022).
- Davidson County Circuit Court jury trial verdict of $122,755.46 following a top pre-trial offer of $30,000 (May 2021).

ATTORNEYS IN THIS PRACTICE AREA


Hon. John (Jack) Garvey


R. Christopher Gilreath


Isaac Kimes


Janna Maples


J. Gerard Stranch IV


K. Grace Stranch

STRANCH, JENNINGS & GARVEY PLLC

Privacy Litigation

Security breach notification laws require entities to notify their customers or citizens when they have experienced a data breach and to take certain steps to deal with the situation. This gives these individuals the opportunity to mitigate personal risks resulting from the breach and minimize potential harm, such as fraud or identity theft. Currently, all 50 states, along with the District of Columbia and three U.S. territories, have adopted notification laws requiring notification when a breach has occurred.

- **In re: Anthem, Inc. Data Breach Litig., MDL 2617 LHK** (N.D. California, 2016). The firm served as counsel for plaintiffs in a coordinated action consisting of nationwide cases of consumers harmed by the 2015 criminal hacking of servers of Anthem, Inc. containing more than 37.5 million records on approximately 79 million people receiving insurance and other coverage from Anthem's health plans. The case settled in 2017 for $115 million, the largest healthcare data breach in U.S. history, and has received final approval.

- **In re: McKenzie et al. v. Allconnect, Inc., 5:18-cv-00359** (E.D. Kentucky) (J. Hood). The firm served as class counsel in an action brought on behalf of more than 1,800 current and former employees of Allconnect, Inc., whose sensitive information contained in W-2 statements was disclosed to an unauthorized third party who sought the information through an email phishing scheme. The firm negotiated a settlement providing for direct cash payments to all class members, credit monitoring and identity theft protection plan at no cost, capped reimbursement of documented economic losses incurred per class member and other remedial measures. The approximately $2.2 million settlement value is one of the largest per capita recoveries in a W-2 phishing litigation.

- **In re: Monegato v. Fertility Centers of Illinois, PLLC, Case No. 2022 CH 00810** (Cook County Circuit Court). The firm served as class counsel in a case brought on behalf of approximately 80,000 individuals whose personal information was involved in a February 2021 data breach. A settlement with a total estimated value of $14.5 million was negotiated. Final approval was granted by the Cook County, Illinois Circuit Court in April 2023.

- **In re: Winsouth Credit Union v. Mapco Express Inc., and Phillips v. Mapco Express, Inc. Case Nos. 3:14-cv-1573 and 1710** (M.D. Tennessee) (J. Crenshaw). The firm served as liaison counsel in consumer and financial institution action stemming from the 2013 hacking of computer systems maintained by Mapco Express, Inc. The cases settled in 2017 for approximately $2 million.

- **In re: Owens, et al. v. U.S. Radiology Specialists, et al., Case No. 22 CVS 17797** (Mecklenburg, North Carolina, Supreme Court). The firm served as plaintiffs' counsel in action brought on behalf of approximately 1.3 million individuals whose sensitive, personal information was potentially compromised in defendants' December 2021 data security incident. Along with co-counsel, the firm negotiated a $5,050,000 non-reversionary common fund settlement including pro rata cash payments, reimbursement of up to $5,000 for out-of-pocket expenses traceable to the data breach per person, compensation for lost time and verified fraud reimbursement. Preliminary approval pending.

Many more nationwide, including:

- **In re: Larson v. Aditi Consulting, LLC, Case No. 22-2-03572-2 SEA** (King County, Washington, Supreme Court). Final approval was granted July 14, 2023.

- **In re: Carr v. South Country Health Alliance, Case No. 74-CV-21-632** (Steele County, Minnesota District Court). Final approval was granted Nov. 6, 2023.

- **In re: Reese v. Teen Challenge Training Center, Inc., Case No. 210400093** (Philadelphia County, Pennsylvania Court of Common Pleas). **Final approval pending.**

- **In re: Joyner v. Behavioral Health Network, Inc., No. 2017CV00629** (Massachusetts Supreme Court). A non-reversionary common fund of $1,200,000 was established to provide credit monitoring, and cover claims of economic loss up to $10,000 and non-economic loss up to $1,000 for lost time for each of the approximately 133,237 class members.

ATTORNEYS IN THIS PRACTICE AREA

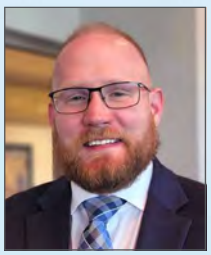

Colleen Garvey


Andrew E. Mize


Emily E. Schiller


Miles M. Schiller


J. Gerard Stranch IV


Grayson Wells

STRANCH, JENNINGS & GARVEY
PLLC

Product Liability

Our attorneys are well-versed in consumer protection laws and unfair trade practices acts, and have successfully advocated in state and federal courts for many notable cases throughout the U.S. These cases have resulted in multi-million-dollar recoveries for consumers who have been harmed by defective products, dangerous medications, misleading or improper advertising or marketing practices, fraud and other violations of the laws and acts. In addition, our attorneys have served as lead and co-lead counsel on numerous cases.

- **In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB** (N.D. California) (J. Breyer). The firm served on the plaintiffs' steering committee in a coordinated action consisting of nationwide cases of consumer and car dealerships. This action alleged that Volkswagen AG, Volkswagen Group of America and other defendants illegally installed so-called "defeat devices" in their vehicles, which allowed the cars to pass emissions testing but enabled them to emit nearly 40 times the allowable pollution during normal driving conditions. In October 2016, the court granted final approval to a settlement fund worth more than $10 billion to consumers with two-liter diesel engines, and in May 2017, the court granted final approval to a $1.2 billion settlement for consumers with three-liter diesel engines, and a $357 million settlement with co-defendant Bosch.

- **In re: Davidson v. Bridgestone/Firestone, Inc. and Ford Motor Co. No. 00-C2298** (Davidson Circuit, Tennessee) (Soloman/Brothers). The firm served as lead counsel in a nationwide class action against Bridgestone/Firestone, Inc. and Ford Motor Co. concerning defective tires. A settlement valued at $34.4 million was reached in conjunction with a companion case in Texas.

- **In re: Montanez v. Gerber Childrenswear, LLC** (M.D. California). The firm represented consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement.

- **In re: Cox v. Shell Oil et al., Civ. No. 18844** (Weakley Chancery, Tennessee) (Judge Malon). The firm intervened in consumer action composed of all persons throughout the United States who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that was valued at $1 billion.

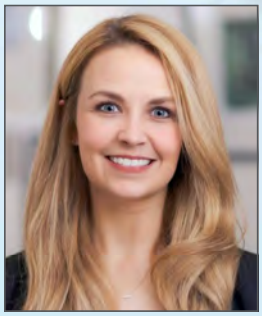
- **In re: Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6** (W.D. Missouri). The firm served on the executive committee in a nationwide consumer class action composed of all owners or purchasers of a defective hot water heater. A settlement was reached that provided 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages.

ATTORNEYS IN THIS PRACTICE AREA


Hon. John (Jack) Garvey


R. Christopher Gilreath


Isaac Kimes


Janna Maples


J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY
PLLC

Trucking Wrecks

According to the National Safety Council (NSC), 4,842 large trucks nationwide were involved in a fatal crash in 2020 (the last year for which data is available). According to the National Center for Statistics and Analysis (NCSA), an office of the National Highway Traffic Safety Administration (NHTSA), 831 truck occupants and nearly 5,000 other individuals were killed as a result of these crashes in 2020. Between 2017 and 2020, an average of more than 42,000 truck occupants and more than 151,000 other individuals were injured.

These numbers clearly reveal the prevalence of accidents involving large trucks and the damage they inflict on individuals and their families. Our firm has decades of experience in representing victims of trucking wrecks who seek compensation to cover physical and material damages.

ATTORNEYS IN THIS PRACTICE AREA

Hon. John (Jack) Garvey

R. Christopher Gilreath

Isaac Kimes

J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY PLLC

Wage & Hour Disputes

For decades, our firm has represented working people with individual claims or as part of class action litigation regarding their employers' wage and hour compliance. Our attorneys have broad litigation experience on behalf of employees in nearly every industry sector, covering a wide range of violations – from unpaid overtime or "off-the-clock" work to independent contractors, improper wage deductions and exemption requirements. They are well-versed in the provisions of the Fair Labor Standards Act, along with other federal and state statutes, and stay on top of developing case law and changes in current laws.

- **In re: Drummond et. al. v. C.E.C. Electrical Contractors, Inc., 98-1811-III** (Davidson Chancery, Tennessee). The firm served as lead counsel in a class action settlement by employees against their employer for wages and benefits due from a school construction contract between their employer and the Metropolitan-Davidson County Board of Education. A settlement was reached in which employees received 100% of their wages and benefits.

ATTORNEYS IN THIS PRACTICE AREA

Nathan R. Ring

J. Gerard Stranch IV

STRANCH, JENNINGS & GARVEY PLLC

Wills & Estates

Stranch, Jennings & Garvey attorneys understand that planning for the future and protecting your loved ones are incredibly important. Our experienced legal professionals provide comprehensive legal services tailored to your circumstances.

A will is a legal document that outlines your wishes for the distribution of your assets after your death. It allows you to express your wishes for the inheritance of your property, manage your finances and care for your family. A legally sound will guarantees that your wishes are upheld and can prevent potential disputes among family members.

We have successfully assisted both individuals and families in navigating the complexities of probate, asset distribution and estate planning. We can help you ensure a smooth transition of assets and secure your wealth for future generations.

Our attorneys stay informed about new legal developments in this branch of law to provide you with the most up-to-date advice and representation. Our services cover a wide range of areas, including:

- **Asset protection**
- **Drafting wills and trusts**
- **Elder law**
- **Estate planning**
- **Probate and estate administration**
- **Trust and estate litigation**

We understand the emotional nature of estate planning, especially when experiencing the loss of a loved one. Our team offers compassionate guidance during difficult times to make certain that you and your family have the support you need.

STRANCH, JENNINGS & GARVEY PLLC

Worker Adjustment & Retraining Notification

The Worker Adjustment and Retraining Notification (WARN) Act is a federal law that helps ensure advance notice to employees in cases of qualified plant closings and mass layoffs. Employers are required to provide written notice 60 days prior to the date of a mass layoff or plant closing, in addition to other requirements. Employees of companies who have not complied with the WARN Act are entitled to certain rights. Our firm has represented clients in numerous cases that have resulted in monetary settlements for employees whose employers did not comply with the law.

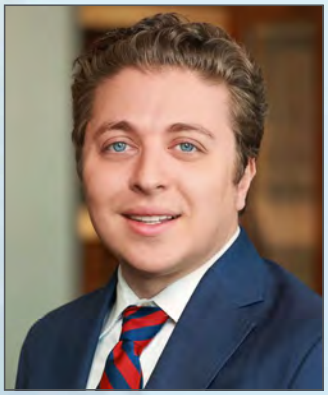
- **In re: Kizer v. Summit Partners, Case No. 1:1-CV-38** (E.D. Tenn.) The firm served as lead counsel in class actions on behalf of employees of a closed Summit Partners facility located in Chattanooga, Tennessee. This case was successfully settled for $275,000.

- **In re: Owens v. Carrier Corp., Case No. 2:08-2331-SHM P** (W.D. Tenn.) The firm served as lead counsel in class action on behalf of former Carrier Corp. employees at the closed Collierville, Tennessee, plant. The case was successfully settled for $2.1 million on behalf of former employees after lead counsel successfully obtained class certification over plaintiffs' WARN Act claims.

- **In re: Sofa Express Inc., Case No. 07-924** (Bank. M.D. Tenn.) The firm served as lead counsel in class action on behalf of former Sofa Express, Inc. employees at company headquarters and a distribution center in Groveport, Ohio. The case was successfully settled for $398,000 on behalf of former employees.

- **In re: Robertson et. al v. DSE Inc., Case No. 8:13-cv-1931-T-AEP** (M.D. Fla.). The firm served as lead counsel in class action on behalf of former DSE Inc. employees at Florida and South Carolina manufacturing facilities. This case was successfully settled for more than $1 million on behalf of former employees.

ATTORNEYS IN THIS PRACTICE AREA



Michael Iadevaia

J. Gerard Stranch IV

EXHIBIT B

EXHIBIT B TO DECLARATION OF STRANCH, JENNINGS & GARVEY, PLLC

SJG'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]											Total Hours	Rate	Total Fees
NAME	2	3	4	6	7	8	10	11	12	13	14			
Beridon, Alyson (Associate)	0	0	0	0.2	0	0	0	0	0	0	0	0.2	$575.00	$115.00
Chavez, Arianna (Paralegal)	0	0	0	0	0	0	0	7.5	0	0	0	7.5	$375.00	$2,812.50
Corder, Heather (Paralegal)	0	0	4.1	0	0	0	0	0	0	0	0	4.1	$375.00	$1,537.50
Fischer, Elizabeth (Associate)	0	0	0	0	0	225	30.2	0	6.8	0	0	262	$775.00	$203,050.00
Gastel, Benjamin (Partner)	0	0	0	0	0	0	0	0	1	0	0	1	$1,000.00	$1,000.00
Gregory, Laura (Paralegal)	0	0	1.9	2.5	0	0	0	0	4.4	0	0.2	9	$375.00	$3,375.00
Iadevaia, Michael (Associate)	0	0	0	0	6	0	0	0	28	0	0	34	$819.00	$27,846.00
Mallinak, Kyle (Associate)	10.2	3.3	0	18.5	12.5	11.3	8.1	24.9	270.4	0	61.5	420.7	$850.50	$357,805.35
Mize, Andrew (Associate)	0	0	0	0	5.7	0	0	0	0.4	0	0	6.1	$787.50	$4,803.75
Orlandi, Anthony (Associate)	0	0	0	0	0	0	0	0	1	0	0	1	$925.00	$925.00
Schiller, Emily (Associate)	0	0	0	0	0	23	0	0	20.9	0	0	43.9	$708.50	$31,103.50
Skolnik, Brandon (Paralegal)	0	0	0	2	0	0	0	0	0	0	0	2	$375.00	$750.00
Steele, Jennifer	1	0.2	37.8	8	0.3	15.7	0	0.3	20.4	0	2.8	86.8	$375.00	$32,550.00

[1] Codes 1, 5, 9, and 18 are excluded from this chart as no SJG attorneys or staff spent time on these categories during the relevant time period. Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.

Case 1:22-md-03035-STA-jay Document 806-4 Filed 05/07/25 Page 60 of 63 PageID 12982

(Paralegal)														
Stranch, J. Gerard (Partner)	27.6	1.9	0.9	137.3	1.5	55.8	5.7	0.7	74.7	0.2	58.8	365.1	$1,450.00	$529,395.00
TOTALS	**38.8**	**5.4**	**44.7**	**166.3**	**26**	**330.8**	**44**	**33.4**	**426**	**0.2**	**123.3**	**1,243.4**		**$1,197,068.60**

Key of billing category codes:

1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances
7. Legal Research	8. Discovery	9. Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

Case 1:22-md-03035-STA-jay Document 806-4 Filed 05/07/25 Page 61 of 63 PageID 12983

EXHIBIT C

EXHIBIT C TO DECLARATION OF STRANCH, JENNINGS & GARVEY, PLLC

SJG'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

Expense Category Code		Amount
1	Litigation Fund Assessments	$70,000.00
2	Federal Express / Local Courier	$213.08
3	Postage Charges	$255.37
4	Facsimile Charges	
5	Long Distance Charges	
6	In-House Photocopying	
7	Outside Photocopying	
8	Hotels	$2,669.72
9	Meals	$2,989.88
10	Mileage	$13.85
11	Air Travel	$1,951.04
12	Deposition Costs	$400.00
13	Lexis/Westlaw/PACER	
14	Witness and Expert Expenses	
15	Court Fees	
16	Investigation Fees / Service Fees	$2,535.80
17	Hearing and Trial Transcripts	
18	Ground Transportation	$1,175.41
19	Miscellaneous (Mediation Fees)	$6,078.17
TOTAL SJG EXPENSES		**$88,282.32**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF JULIE NEPVEU IN SUPPORT OF PLAINTIFFS' PETITION FOR ATTORNEYS' FEES FROM THE AMEC AND NEWPORT SETTLEMENTS

I, Julie Nepveu, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney licensed to practice law in the District of Columbia and Commonwealth of Virginia. I am a senior attorney at AARP Foundation in the District of Columbia. I was appointed to the Plaintiffs' Steering Committee by the Court on August 22, 2024 (ECF No. 487)[1] and my firm was one of the firms appointed as Class Counsel for purposes of the AME Settlement and the Newport Settlement by this Court in its March 24, 2025 Order preliminarily approving the proposed settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF No. 775.)

2. I am submitting this declaration in support of Plaintiffs' petition for attorneys' fees and expenses and service awards for the appointed Class Representatives in connection with the AME and Newport Settlements.

[1] On this date I was substituted into my colleague, Dean Graybill's, position on the Plaintiffs' Steering Committee. Dean Graybill had been originally appointed to the Plaintiffs' Steering Committee by the Court on August 4, 2022 (ECF No. 68).

3. I have worked with and/or supervised all AARP Foundation attorneys and staff responsible for this matter for the entirety of the litigation thus far. AARP Foundation's firm resume, including a description of our firm and the attorneys who assisted on this case, is attached hereto as **Exhibit A**.

4. Since being consolidated as an MDL in June of 2022, I have assisted Co-Lead Counsel and the rest of the Plaintiffs' Steering Committee in litigating various aspects of the case as described in Co-Lead Counsel Matthew Lee's declaration.

5. Adhering to the Protocol for Time and Expense Reporting established by Co-Lead Counsel at the onset of this MDL, my firm submitted our contemporaneous time and expense records to Co-Lead monthly. AARP Foundation's attorneys and staff categorized their time spent on this litigation into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

6. In connection with preparing the monthly time and expense reports submitted to

Co-Lead Counsel and with preparing this declaration, I have reviewed AARP Foundation's time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by AARP Foundation on this litigation from inception through March 31, 2025 is 359.4. Based on our current billing rates, AARP Foundation's total lodestar for this litigation from inception through March 31, 2025 is $259,255.10. A summary breakdown of AARP Foundation's lodestar is provided in **Exhibit B**.

7. The hourly rates shown in **Exhibit B** are AARP Foundation's standing billing rates for contingent cases and are consistent with hourly rates submitted by my firm in other class action or complex litigation. For personnel who are no longer employed by AARP Foundation, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment at AARP Foundation.

8. Regarding expenses, at the outset of the litigation the Plaintiffs' Steering Committee established a Litigation Fund to facilitate the sharing of certain costs, such as deposition transcripts, document repository services, expert witness and consultant fees, and mediation fees. My firm has contributed to this Litigation Fund on three occasions for a total of $70,000.00. **Exhibit C** reflects AARP Foundation's contributions to the Litigation Fund.

9. Additionally, my firm has incurred a number of costs related to such activities as travel for hearings or status conferences. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**.

10. After my review and submission to Co-Lead Counsel, the total amount of expenses incurred from the inception of this litigation through March 31, 2025, for which AARP Foundation is seeking reimbursement is $71,878.42.

11. To summarize, for purposes of this petition for attorneys' fees and expenses, the total lodestar for AARP Foundation is $259,255.10 and the total expenses for which AARP Foundation is presently seeking reimbursement is $71,878.42. I believe that these totals reflect reasonable and necessary time spent and expenses incurred while litigating on behalf of Plaintiffs and the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 6th day of May, 2025, in the District of Columbia.

/s/ Julie Nepveu
Julie Nepveu

EXHIBIT A

AARP FOUNDATION / WHAT WE DO

Legal Advocacy

Economic Opportunity · Social Connection · Legal Advocacy · Food Security

AARP Foundation Litigation: A Public Interest Law Firm at the Intersection of Aging and Social Justice

AARP Foundation conducts legal advocacy through its litigating arm, AARP Foundation Litigation, which advocates for systemic change in federal and state courts nationwide to advance the legal rights and interests of people 50 and older, particularly vulnerable individuals and those living with low income. Specifically, we file and support lawsuits that will have a significant impact on senior poverty by:

- Reducing barriers to employment, including self-employment
- Increasing access to public and private benefits
- Protecting consumers by stopping unlawful business practices and securing refunds for those who lost money
- Lowering out-of-pocket costs for key expenses, such as housing, food, and health care
- Promoting more equitable outcomes across these areas

MEET THE TEAM

AFL WORK

In the News

AARP Foundation Joins Class Action Lawsuit to Recover Church Retirement Funds

AARP Foundation joins lawsuit against AME Church over retirement funds.

Read: Complaint, Press Release, Listen/Read, to SVP William A. Rivera Atlanta Journal-Constitution (article)

Model Settlement in Lawsuit Challenging Workplace Wellness Program

Yale University has agreed to settle a class action lawsuit.

Kwesell v. Yale University, U.S. Dist. Ct. Conn. 3:19-cv-10980

Read: Complaint (PDF), WNPR Listen/Read, Press Release, Listen Take on Today podcast

Pension Suit to Continue with Court's Affirmance on Appeal

Appellate Division upholds trial court ruling allowing pensioners to proceed with their case.

Read Court's Decision on Motion to Dismiss (PDF), Press Release on Motion to Dismiss, Decision on Appeal (PDF), Press Release on Appeal

READ MORE NEWS

On the Docket

Current Litigation Cases

Follow cases in which attorneys with AARP Foundation represent a party. The cases listed in this docket are in reverse chronological order of the filing or decision dates.

Recent Amicus Cases

The amicus cases in this docket appear in reverse chronoloical order of the filing or decision dates.

Recent Cases

Hospital Workers' Suit Over Pension Can Proceed

Court decides that retired hospital workers in Schenectady, NY, can proceed with their lawsuit over the reduction or elimination of promised pension benefits. Read **Court's Decision on Motion to Dismiss** (PDF), **Press Release** on Motion, **Decision** on Appeal **(PDF)**, **Press Release** on Appeal

Defending the Right to Live Independently

A class-action suit on behalf of nursing facility residents in D.C. who are being denied the right to supportive care in their home communities goes to trial. Read **Announcement** (PDF), **Opening Brief** (PDF), **Appellant's Reply Brief** (PDF), **Opinion** (PDF), **Findings of Fact and Conclusions of Law** (PDF) filed March 9, 2022

N.H. Case Highlights Dangers of Institutional Care

Older adults and people with disabilities in New Hampshire may now proceed with a lawsuit over their right to avoid potentially dangerous nursing facility care and instead receive care in their own homes. Read **Complaint** (PDF), **Press Release**, **Article**, **Decision on Motion to Dismiss** (PDF), **Press Release** on Motion to Dismiss, **Article** on Motion

Lawsuit Settled Against Adult Care Facilities

The settlement requires the facilities to end discrimination against individuals with mobility impairments and to admit them on the same basis as other applicants. Read **Complaint** (PDF), **Press Release** filing, **Opposition Brief** (PDF), **Settlement Agreement** (PDF), Press Release settlement

Critical Dental Care Protected

A district court in California granted AARP Foundation's request to nullify (or "vacate") a decision by CMS that effectively eliminated access to critical dental care for Medicaid beneficiaries in California nursing facilities.
Read **Complaint** (PDF), **Press Release**, **Motion for Judgment** (PDF), **Decision** (PDF), LinkedIn **Op-Ed**, Marsh Ryerson

Stricter Penalties for Nursing Facilities

After AARP Foundation filed suit, the Centers for Medicare and Medicaid Services reversed course and restored stricter per-day penalties for nursing facility violations that risked the health and well-being of residents. Read **Complaint** (PDF). Opening **Press Release**, **Article**, **Press Release** (7/28/2021, CMS reversal on penalties)

AARP FOUNDATION CHURCH PENSION PLAN LITIGATION

***Hartshorne v. Roman Catholic Diocese of Albany*, 2021 NY Slip Op 07329 (Appellate Division of the Supreme Court of New York, Third Department, Dec. 23, 2021)**

Press Releases

Search the AARP Press Room GO

AARP FOUNDATION (HTTPS://PRESS.AARP.ORG/PRESS-RELEASES?CATEGORY=778) • SEP 10, 2019

Advocates File Lawsuit on Behalf of St. Clare's Pensioners Against the Roman Catholic Diocese of Albany, St. Clare's Corporation, and Bishops

Schenectady, NY—Three organizations and a solo attorney filed a lawsuit at the Schenectady County Supreme Court this morning against the Roman Catholic Diocese of Albany and its agents. The suit, brought on behalf of more than one hundred former employees of St. Clare's Hospital of Schenectady, seeks damages for St. Clare's failure to pay its former employees the pensions it promised.

The Legal Aid Society of Northeastern NY (LASNNY), AARP Foundation; Legal Services of NYC-Brooklyn Legal Services; and David Pratt jointly filed the action on behalf of a group of former nurses, orderlies, laboratory technicians, clerical and housekeeping staff, and others who worked for years—in many cases, decades—at St. Clare's Hospital of Schenectady, New York, a part of the Roman Catholic Diocese of Albany. On October 11, 2018, St. Clare's Corporation told more than 1,100 former St. Clare's Hospital employees that despite their years of service, most of them would not receive a pension and others would have their pensions drastically reduced.

The attorneys: Victoria Esposito, Meryl Grenadier, Dara Smith, Gary Stone and David Pratt filed today's pleading at the Schenectady County Courthouse.

"These are hard-working, dedicated people who served their community for years—in some cases decades—and the rug was pulled out from under them," said William Alvarado Rivera, Senior Vice President for Litigation at AARP Foundation, which helps vulnerable older adults build economic opportunity. "Justice requires that they receive the pensions they were promised."

The suit asserts that the Roman Catholic Diocese of Albany and its bishops controlled St. Clare's Hospital and subsequently St. Clare's Corporation through a variety of means, including its control of the St Clare's Board of Directors. It further asserts that since 1959 the Diocese made all major decisions affecting the rights and benefits of the St Clare's Plan's Participants, and that the Diocese and the Bishops are therefore responsible for the insolvency of the pension fund.

According to the website of the Roman Catholic Diocese of Albany, the Bishop of Albany is the president of the corporate structure of each separate parish in the diocese. The bylaws of St. Clare's Hospital and its successor corporation, St. Clare's Corporation, provide that the Bishop is the "automatic director" of the St. Clare's corporation board, with the power to appoint or remove multiple directors.

Bishop Scharfenberger has been the Roman Catholic Albany Diocesan Bishop since February 11, 2014; his predecessor. His predecessor, Bishop Howard Hubbard, served from March 27, 1977 until February 11, 2014. Both are named as defendants.

"My clients, like so many other people, gladly gave decades of their lives to St. Clare's Hospital and to caring for others," said Victoria Esposito, LASNNY's Advocacy Coordinator. "St. Clare's and the Diocese promised to take care of my clients when they were no longer able to work. They broke that promise. My clients are not asking for charity. They are not asking for a handout. They are asking for the pensions that they earned."

"Imagine having your entire financial future disappear in a single moment," said Gary Stone, an attorney at Legal Services NYC. "Our clients are devastated by the Diocese's complete lack of accountability and refusal to explain where pension funds or state bailout money went. They worked their entire lives at this hospital, paid into their pensions, and planned for their retirements. They deserve answers and more importantly, they deserve the stable futures they were promised. We won't stop fighting until they get both."

The lawsuit also names Robert Perry, Former Board President and Chief Executive Officer of the hospital; Joseph F. Pofit, the President of the Board of Directors of St. Clare's Corporation and an employee of the Diocese; the Retirement Plan, and the Board of Trustees of St. Clare's Retirement Income Plan Trust.

###

About AARP Foundation

AARP Foundation works to end senior poverty by helping vulnerable older adults build economic opportunity and social connectedness. As AARP's charitable affiliate, we serve AARP members and nonmembers alike. Bolstered by vigorous legal advocacy, we spark bold, innovative solutions that foster resilience, strengthen communities and restore hope. To learn more about AARP Foundation visit aarpfoundation.org.

Media Contact: Media@aarp.org, (mailto:Media@aarp.org) 202-434-2560, @AARPMedia

About AARP (https://www.aarp.org/about-aarp/?intcmp=AE-HP-FTR-ABOUT)

En Español (https://www.aarp.org/espanol/?intcmp=AE-HP-FTR-ESPANOL)

AARP Press Center (https://press.aarp.org/?intcmp=FTR-LINKS-PRO-PRESS1-EWHERE)

AARP 樂齡會 (https://chinese.aarp.org/?intcmp=AE-HP-FTR-CHINESE)

Press Releases

Search the AARP Press Room GO

- JUL 16, 2020

AARP Foundation Applauds Judge's Decision to Allow St. Clare's Pensioners Lawsuit to Proceed

WASHINGTON—AARP Foundation welcomed the Schenectady County Supreme Court's decision yesterday to reject the defendants' effort to dismiss a lawsuit filed on behalf of St. Clare's Hospital pensioners against the Roman Catholic Diocese of Albany and St. Clare's Corporation.

"The court's decision clearly establishes that the plaintiffs have a sound basis for asking St. Clare's Corporation and the Roman Catholic Diocese of Albany to uphold their end of the bargain," said AARP Foundation attorney Meryl Grenadier. "Like thousands of retirees across the country, the plaintiffs earned their pension over years, sometimes decades, of hard work. This decision is an important step towards holding St. Clare's and the Diocese accountable and restoring the financial security they promised their employees. It is all-the-more welcome given the severe economic challenges facing our clients and countless others across the country."

The suit was jointly filed by AARP Foundation and several other legal aid organizations on behalf of a group of long-serving former employees of St. Clare's Hospital. It argues that St. Clare's acted illegally when it informed more than 1,100 former St. Clare's Hospital employees that most of them would not receive a pension and others would have their pensions drastically reduced.

###

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For further information: AARP External Relations, Media@aarp.org, 202-434-2560, @AARPmedia

EXAMPLES OF ADDITIONAL RECENT AARP FOUNDATION LITIGATION

AARP Foundation
For a future without senior poverty.

AARP Foundation Continues the Fight for the Civil Rights on Behalf of a Class of Thousands of D.C. Citizens

On July 5, 2019, the U.S. Court of Appeals for the District of Columbia Circuit overturned a 2017 federal district court decision and restored the civil rights of thousands of D.C. residents with disabilities who want to transition from nursing facilities back to their own homes. (*Brown v. District of Columbia*, 17-7152) People with disabilities have a civil right to live in the community, if able, and avoid unnecessary placement in institutional settings such as nursing facilities. However, people who have lived for long periods in nursing facilities typically need help reconnecting with their communities. They need help applying for D.C. services, identifying available housing options, and selecting the right Medicaid-funded home care aides that can assist them to live in their homes. In 2010, Ivy Brown and other D.C. residents decried the city's failure to provide transition services that would allow them to move back into their homes and communities. AARP Foundation, Disability Rights D.C. at University Legal Services, and the law firm of Arent Fox, LLP originally brought this lawsuit against the D.C. on behalf of the class. AARP Foundation and Relman, Dane & Colfax represented the class on appeal.

"This year marks the 20th anniversary of the momentous *Olmstead v. L.C.* case, which is widely hailed as the *Brown v. Board of Education* for people with disabilities as it ended the District's discriminatory nursing facility segregation policy," said Kelly Bagby, AARP Foundation Vice President for Litigation. "On behalf of thousands of class members in nursing facilities on D.C. Medicaid, AARP Foundation views the D.C. Circuit decision as a great opportunity to mark this anniversary by continuing the fight for civil rights."

# # #

AARP FOUNDATION (HTTPS://PRESS.AARP.ORG/PRESS-RELEASES?CATEGORY=778) •
MAR 11, 2021

Age Discrimination Class Action Settled, Announce PwC LLP, AARP Foundation, and Outten & Golden LLP

SAN FRANCISCO—In the class and collective action lawsuit *Rabin v. PricewaterhouseCoopers LLP*, pending in the Northern District of California, the court has granted final approval of the settlement between Plaintiffs and the Defendant, and yesterday the settlement became final and effective.

In the lawsuit, Plaintiffs alleged that PwC failed to hire them and the Class and Collective Action Members into Associate, Senior Associate, and Experienced Associate positions in the Tax and Assurance lines of service, because they were over 40 years old, in violation of the Age Discrimination in Employment Act (ADEA) and of California and Michigan antidiscrimination laws. PwC denies having engaged in any unlawful discrimination.

The parties have agreed to settle all claims in the lawsuit for $11.625 million. PwC has also agreed to enhance certain of its recruiting procedures geared toward further attracting qualified older applicants for entry-level jobs. PwC is proud of its excellent recruiting and hiring practices, including focusing on diversity, nondiscrimination, and inclusion. For example, PwC is taking steps to further enhance the ability of alumni to apply to positions available through on-campus recruiting programs, which promotes an age-diverse applicant pool. PwC's Chief Purpose & Inclusion Officer, Shannon Schuyler, stated, "PwC is proud to affirm its commitment to identify and hire older workers. The commitments in this settlement will help PwC remain one of the most sought-after employers in the country. Our workforce represents the diversity of perspective, life experiences and backgrounds, and welcomes talented workers across the age spectrum."

The parties agree that the settlement is not an admission of liability by PwC.

The Plaintiffs and proposed class and collective members are represented by:
AARP Foundation Litigation
Media Contact:
AARP External Relations, media@aarp.org (mailto:media@aarp.org), 202-434-2560

Outten & Golden LLP
Jahan C. Sagafi, jsagafi@outtengolden.com (mailto:jsagafi@outtengolden.com), 415-638-8808

The press contact for Defendant PricewaterhouseCoopers is:
Andy Liuzzi, robert.liuzzi@pwc.com (mailto:robert.liuzzi@pwc.com)

# # #

About AARP Foundation

AARP Foundation works to end senior poverty by helping vulnerable people over 50 build economic opportunity. Our approach emphasizes equitable outcomes for populations that have faced systemic discrimination. As AARP's charitable affiliate, we serve AARP members and nonmembers alike. Through vigorous legal advocacy and evidence-based solutions, and by building supportive community connections, we foster resilience, advance equity and restore hope. To learn more, visit aarpfoundation.org (https://nam12.safelinks.protection.outlook.com/?url=http://www.aarpfoundation.org/&data=04%7c01%7cCSPerry%40aarp.org%7ca14489fd44c842bbb138(follow @AARPFoundation on social media.

About Outten & Golden

Outten & Golden LLP focuses on advising and representing individuals in employment, partnership, and related workplace matters both domestically and internationally. The firm counsels individuals on employment and severance agreements; handles complex compensation and benefits issues (including bonuses, commissions, and stock/ option agreements); and advises professionals (including doctors and lawyers) on contractual issues. It also represents employees with a wide variety of claims, including discrimination and harassment based on sex, sexual orientation, gender identity and expression, race, disability, national origin, religion, and age, and retaliation, whistleblower, and contract claims. The firm handles class actions involving a wide range of employment issues, including economic exploitation, gender- and race-based discrimination, wage-and-hour violations, and other systemic workers' rights issues.

Outten & Golden has nine practice groups: Executives & Professionals, Financial Services, Sex Discrimination & Sexual Harassment, Family Responsibilities & Disabilities Discrimination, Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Workplace Rights, Discrimination & Retaliation, Whistleblower Retaliation, Class & Collective Actions, and WARN Act.

Outten & Golden has offices in New York, Chicago, San Francisco, and Washington, DC.

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Careers at AARP (https://careers.aarp.org/?cmp=AE-HP-FTR-CAREERS)

Veterans Resources (https://www.aarp.org/home-family/voices/veterans/?intcmp=AE-HP-FTR-VETS)

Membership (https://www.aarp.org/membership/?intcmp=AE-HP-FTR-MEM)

My Community Page (https://community.aarp.org/?intcmp=AE-HP-FTR-COMM)

Press Releases

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AARP FOUNDATION (HTTPS://PRESS.AARP.ORG/PRESS-RELEASES?CATEGORY=778) •
MAR 7, 2022

Settlement Achieved in Class Action Lawsuit Challenging Yale's Workplace Wellness Program

New Haven, Conn.— Yale University and certain of its employees have agreed to settle a class action lawsuit, *Kwesell v. Yale University*, subject to Court approval. The lawsuit alleges that Yale's Health Expectations (https://your.yale.edu/work-yale/benefits/my-benefits-job-classification/health-expectations-program-hep) Program violated federal statutes because it required employees and their spouses to either participate in the wellness program, which requires routine checkups and diagnostic testing, or pay a weekly opt-out fee. Under federal law, voluntary employer wellness programs are permissible. The Plaintiffs alleged that the $25 opt-out fee rendered the Program involuntary under the Americans with Disabilities Act and the Genetic Information Non-Discrimination Act. Plaintiffs in the case were represented by attorneys from AARP Foundation and Garrison, Levin-Epstein, Fitzgerald & Pirrotti, P.C.

Yale implemented the Program as part of a collective bargaining agreement with two of its unions, under which most union employees paid no premium for their health plan coverage. At the time the program was developed, federal regulations authorized the charging of opt-out fees. Those regulations were later invalidated and to date have not been replaced, resulting in legal uncertainty regarding the permissible use and amount of opt-out fees.

"We designed the Health Expectations Program with our union partners and the advice of healthcare and legal experts," remarked Stephanie Spangler, Vice Provost for Health Affairs and Academic Integrity on behalf of Yale. "Nevertheless, we feel it is best to resolve what would have been expensive litigation and move forward. Our relationship with our employees is an important priority."

Under the proposed settlement agreement, Yale will continue to offer the Health Expectations Program, but will not charge opt-out fees for a four-year period and will change its practices regarding the transfer of health data in connection with the Program. Yale will also pay $1.29 million, to be distributed among employees who were covered by the Program and to cover plaintiffs' attorneys' fees and costs to the extent approved by the Court.

"We are very pleased with the settlement in this important case, both because of the significant amount of compensation for Yale's employees and because of the example Yale is setting for other employers by eliminating their opt-out fees," said William Alvarado Rivera, senior vice president for litigation at AARP Foundation. "We believe participating in a wellness program should be entirely voluntary, with no element of coercion, financial or otherwise."

Plaintiffs in the case were represented by AARP Foundation lawyers, Dara S. Smith and Elizabeth Aniskevich, as well as Joshua Goodbaum of Garrison, Levin-Epstein, Fitzgerald & Pirrotti, P.C. Yale University was represented by Jonathan Freiman and Kim Rinehart of Wiggin and Dana LLP.

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About Garrison, Levin-Epstein, Fitzgerald & Pirrotti, P.C.

Garrison, Levin-Epstein, Fitzgerald, and Pirrotti, P.C., has long been recognized as a preeminent Connecticut employment law firm for representing employees and fighting for workers' rights. All six of our partners are recognized by Connecticut Super Lawyers and Best Lawyers, from which we have received multiple "Lawyer of the Year" honors, and all six are listed among the 500 Leading Plaintiff Employment Lawyers in the United States – by far the most of any Connecticut law firm.

Media Contact: Madison Daniels, mdaniels@aarp.org (mailto:mdaniels@aarp.org), 202-531-9026

Press Releases

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CAREGIVING & LONG TERM CARE (HTTPS://PRESS.AARP.ORG/PRESS-RELEASES?CATEGORY=772)

- JUL 28, 2021

Key Federal Agency to Restore Tougher Penalties for Nursing Home Violations

WASHINGTON – Six months after a lawsuit filed by AARP Foundation and the law firm of Constantine Cannon LLP, the Centers for Medicare and Medicaid Services (CMS) reversed course and announced plans to impose much stiffer penalties for nursing facility violations, AARP Foundation said today.

The lawsuit alleges that reduced fines put nursing facility residents' lives at risk by weakening enforcement of the federal Nursing Home Reform Act (NHRA). The suit, in the U.S. District Court for the District of Columbia, focuses on a 2017 CMS directive that restricts monetary penalties for nursing facilities to a one-time-only maximum fine of $22,320 for certain violations, rather than allowing fines of up to that amount for each day of noncompliance.

"AARP Foundation is heartened by CMS's decision to return to the tougher standard in effect before 2017," said William Alvarado Rivera, Senior Vice President of Litigation at AARP Foundation. "The recent policy eliminated much of the incentive for nursing facilities to identify and correct serious problems quickly, and often exposed nursing facility residents to dangerous conditions."

More than 184,000 residents and staff of long-term care facilities died from COVID-19 and well over one million confirmed cases have be reported in nursing facilities.

"By returning to meaningful penalties for noncompliance, CMS is incentivizing nursing facilities to correct problems before they lead to a similar disaster," said Henry Su, co-counsel from the firm of Constantine Cannon.

Last week, CMS announced on its website that it was dropping its 2017 "guidance" to its state and regional offices to assess penalties for past noncompliance on a one-time-only basis. The one-time-only penalty has allowed facilities to get away with a slap on the wrist for maintaining even dangerous conditions.

The AARP Foundation lawsuit was filed against CMS and the U.S. Department of Health and Human Services on behalf of California Advocates for Nursing Home Reform (CANHR) and the National Consumer Voice for Quality Long-Term Care. The lawsuit described the July 7, 2017 CMS

memorandum as creating "an irregular and unlawful policy change."

###

About AARP Foundation

AARP Foundation works to end senior poverty by helping vulnerable people over 50 build economic opportunity. Our approach emphasizes equitable outcomes for populations that have faced systemic discrimination. As AARP's charitable affiliate, we serve AARP members and nonmembers alike. Through vigorous legal advocacy and evidence-based solutions, and by building supportive community connections, we foster resilience, advance equity and restore hope. To learn more, visit aarpfoundation.org (https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.aarpfoundation.org%2F&data=04%7C01%7Cmdaniels%40aarp.org%7C61d14 follow @AARPFoundation on social media.

For further information: AARP External Relations: Media@aarp.org, 202-434-2560

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- JAN 21, 2021

HHS Sued for Allowing California to Limit Access to Dental Care for Older Patients and Patients with Disabilities

LOS ANGELES—Registered Dental Hygienists in Alternative Practice (RDHAP), a group of dental hygienists represented by AARP Foundation and Foley & Lardner LLP, are suing the U.S. Department of Health and Human Services (HHS) for its approval of changes to California's Medicaid Plan that effectively eliminate access to critical dental care by California's elderly and Medicaid beneficiaries with disabilities.

The lawsuit filed by RDHAP alleges that California's new preauthorization process and 58% rate cut to periodontal maintenance (a treatment for gum disease) often leave California's institutionalized Medi-Cal recipients without critical dental care. In 2018, HHS, through CMS, approved a rate cut for perio-maintenance from $130 to $55. HHS also approved a new preauthorization process for scaling and root planning that required new diagnostic x-rays.

Plaintiff Diane Brown, one of the RDHAPs who treats severely disabled patients says that, "Most of my patients in Intermediate Care Facilities are unable to take X-rays due to medical conditions; they cannot keep their head still or bite down sufficiently to take x-rays."

"California has cut the pay of Medicaid providers to treat periodontal disease in nursing homes by more than 50%, resulting in a denial of access to oral health care for California's most vulnerable citizens," said AARP Foundation Senior Vice President for Litigation William Alvarado Rivera. "When older adults experience a decline in oral health due to pain and tooth loss, they are unable to chew their food, which also leads to a rapid decline in their nutritional status and overall health. Without treatment, these patients have difficulty not only eating, but also speaking, and suffer increased isolation."

The lawsuit alleges that HHS's arbitrary approval of unwarranted and onerous procedural hurdles to their provision of periodontal care to patients and the devastating 58% rate cut "has resulted in a complete denial of periodontal maintenance to thousands of Medi-Cal beneficiaries who reside in skilled nursing and intermediate care facilities."

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California residents who have struggled to get the perio-maintenance services they need can contact AARP Foundation at litigation@aarp.org (mailto:litigation@aarp.org).

Please find the complaint here (https://www.aarp.org/content/dam/aarp/aarp_foundation/litigation/2021/brown-v-azar-complaint.pdf).

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About Foley & Lardner LLP

Foley & Lardner LLP (https://nam12.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.foley.com%2F&data=04%7C01%7CBJones%40aarp.org%7Ccfb53312190d48 looks beyond the law to focus on the constantly evolving demands facing our clients and their industries. With approximately 1,100 lawyers in 24 offices across the United States, Mexico, Europe and Asia, Foley approaches client service by first understanding our clients' priorities, objectives and challenges. We work hard to understand our clients' issues and forge long-term relationships with them to help achieve successful outcomes and solve their legal issues through practical business advice and cutting-edge legal insight. Our clients view us as trusted business advisors because we understand that great legal service is only valuable if it is relevant, practical and beneficial to their businesses.

For further information: AARP External Relations, media@aarp.org, 202-434-2560; Foley & Lardner LLP, Dan Farrell, dfarrell@foley.com, 312-832-4922

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- JAN 11, 2021

Lawsuit Seeks Protection for New Hampshire Residents Facing Dangerous Institutional Placements in Nursing Facilities

CONCORD, N.H.—New Hampshire residents who depend on the state to provide them with Medicaid-funded long-term care are suing the state for its failure to properly administer its Choices for Independence ("CFI") Medicaid waiver. New Hampshire Legal Assistance, Disability Rights Center – New Hampshire, AARP Foundation, and the Manchester office of Nixon Peabody LLP represent older adults and persons with disabilities enrolled in the CFI program who filed a lawsuit in federal court today on behalf of themselves and other CFI participants. They allege that New Hampshire's failure to deliver CFI services places them at risk of unnecessary and dangerous institutionalization in nursing facilities.

"Some of our most vulnerable citizens are one crisis away from unnecessary institutionalization because they are not getting essential CFI services. Without these services, they linger for hours or days alone in bed or confined in their own homes, unable to attend to basic personal needs. The State has long been aware of these problems and we cannot wait any longer for a solution," said Pamela Phelan, DRC-NH's litigation director.

The suit names the New Hampshire Department of Health & Human Services (NHDHHS) Commissioner Lori Shibinette and NHDHHS as defendants and seeks to compel them to operate New Hampshire's CFI waiver program in accordance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Medicaid Act, and due process provisions of the Constitution of the United States.

New Hampshire's CFI Waiver is designed to provide vital assistance to qualified people who choose to continue living in their homes, and to avoid the need for costly and restrictive nursing facility placements. However, the state is currently operating the CFI program in a manner that systematically deprives CFI participants of the home and community-based care to which they are entitled to under the provisions of the waiver program.

The COVID-19 crisis has heightened the importance of preventing unnecessary institutionalization. In New Hampshire, 80% of all COVID-19 deaths have involved residents of these facilities – double the national average.

"When CFI participants are deprived of the community-based long-term care that the state concedes they need and are entitled to, they face grave health risks," said AARP Foundation Senior Attorney M. Geron Gadd. "Failure to properly administer the CFI Waiver not only deprives participants of their right to live as they choose, but also greatly increases their chances of exposure to COVID-19 in nursing homes and other long-term care facilities."

"It's crucial that the state live up to its promises to provide fundamental support to CFI-eligible individuals, their caregivers and families," said Nixon Peabody attorney Kierstan Schultz. "These CFI services are a generally less costly means of supporting older adults and people with disabilities in integrated settings."

If you or someone you know has struggled to get the services you need under the CFI waiver, please email us at litigation@aarp.org (mailto:litigation@aarp.org).

Please find the Complaint here (https://www.aarp.org/content/dam/aarp/aarp_foundation/litigation/2021/stephanie-p-v-shibinette-complaint.pdf).

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About AARP Foundation

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About Nixon Peabody

At Nixon Peabody, we see 21st century law as a tool to help shape our clients' futures. Our focus is on knowing what is important to our clients now and next so we can foresee obstacles and opportunities in their space and smooth the way. We ensure they are equipped with winning legal strategies as they navigate the times we live in. Learn more at www.nixonpeabody.com (http://www.nixonpeabody.com/).

About Disability Rights Center-New Hampshire

Disability Rights Center-NH is New Hampshire's designated Protection and Advocacy system and is dedicated to eliminating barriers existing in New Hampshire to the full and equal enjoyment of civil and

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other legal rights by people with disabilities. More information about DRC-NH can be found at www.drcnh.org (http://www.drcnh.org/).

About New Hampshire Legal Assistance

NHLA's mission is to fulfill America's promise of equal justice by providing civil legal services to New Hampshire's poor, including education and empowerment, advice, representation, and advocacy for systemic change. More information about NHLA can be found at www.nhla.org.

For further information: AARP External Relations: Media@aarp.org, 202-434-2560; Nixon Peabody: Nicholas Braude, (617) 838-0727, nbraude@nixonpeabody.com

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For Immediate Release **July 11, 2016**

AARP Foundation Litigation & SPEEA

24 aerospace professionals file age discrimination action against Spirit AeroSystems

WICHITA, KS –Twenty-four older employees terminated by Spirit AeroSystems in July 2013 filed a major age discrimination case today (Monday, July 11) with the support of a legal team including attorneys from AARP Foundation Litigation (AFL), a Washington D.C.-based component of the AARP Foundation, the charitable arm of the nationwide older-people's organization, AARP. In addition to AFL, local law firm Depew, Gillen, Rathbun, McInteer and two Denver law firms – King & Greisen, LLP and Buescher, Kelman, Perera & Turner, P.C. (attorneys for SPEEA) – also represent the plaintiffs.

The plaintiffs, members of the Society of Professional Engineering Employees in Aerospace (SPEEA), IFPTE Local 2001, filed a lawsuit on behalf of themselves and hundreds of older employees laid off in 2013.

The suit, filed in the U.S. District Court in Wichita, alleges Spirit terminated older employees covered by Spirit's health insurance plan, who either had costly medical conditions or had family members with expensive health issues. Employee health issues cited in the lawsuit include heart disease, cancer, diabetes, high blood pressure, hearing loss, brain aneurysm and gout.

Named plaintiff Donetta Raymond worked at the Wichita plant for 25 years when she was terminated.

"Spirit's decision to fire its older workers after years of dedicated service was shocking," Raymond said. "Spirit ushered us out of there like we had done something wrong when we had not. Our worlds were turned upside down because we had worked there for so long."

"Spirit's treatment of older workers in its July 2013 RIF was unprecedented, unequal and unlawful. Spirit's first-ever large-scale layoffs violated clear disclosure rules regarding mass terminations." said AARP Foundation Litigation's senior attorney Dan Kohrman after the filing today. "Also, available data - including some Spirit *did* provide - show the company gave a disproportionate share of experienced workers, age 40+, low performance ratings, then fired them on that flawed basis."

Just three weeks before the terminations on July 25, 2013, Spirit changed its medical coverage for employees and families from an underwritten, provider form of medical insurance to a self-funded insurance program. Once that change was made, the company's executives believed the plaintiffs and/or their family members posed a high risk of incurring large medical costs that Spirit would be solely responsible for paying.

The terminations included many employees who for years had been rated as top performers, according to the filing. Within weeks after the layoffs, Spirit held a job fair to recruit new employees.

The 24 named plaintiffs are expected to be joined by other SPEEA members age 40 and older who were discharged by Spirit. According to the suit, only 36 of the 200-plus SPEEA members who lost their jobs were under 40, the age at which the federal Age Discrimination in Employment Act (ADEA) of 1967

begins to provide protections. Many of the individuals terminated signed a release of claims which the suit alleges is unenforceable.

The suit challenges not only the terminations but also Spirit's alleged blacklisting of those discharged from new job openings.

"Spirit blackballed the older workers who were fired in July 2013 while hiring for hundreds of positions over the next few years," said attorney Diane King. "This layoff took place just after Spirit went "self-insured" and right when Spirit itself - not a health insurance firm - began paying its employees' medical bills. Spirit clearly had a huge incentive to fire older workers with medical conditions - like the plaintiffs - who it assumed would cut into its bottom line. That was not only wrong, but also a violation of the plaintiffs' civil rights."

In addition to the ADEA claims, some plaintiffs are bringing claims under the federal Americans with Disabilities Act (ADA) and the Family and Medical Leave Act (FMLA).

About AARP Foundation Litigation

AARP Foundation Litigation is a component of the AARP Foundation, which is AARP's affiliated charity. The AARP Foundation is working to win back opportunity for struggling Americans 50+ by being a force for change on the most serious issues they face today; housing, hunger, income and isolation. By coordinating responses to these issues on all four fronts at once, and supporting them with vigorous legal advocacy, the Foundation serves the unique needs of those 50+ while working with local organizations nationwide to reach more people, strengthen communities, work more efficiently and make resources go further. Learn more at www.aarpfoundation.org.

About SPEEA, IFPTE Local 2001

SPEEA is a professional aerospace labor union representing 2,553 employees at Spirit AeroSystems in Kansas. Overall, the union represents 22,842 engineers, technical workers, professionals and pilots in Washington, Kansas, Oregon, Utah, California and Florida. Organized in 1946, SPEEA is affiliated with the International Federation of Professional and Technical Engineers (IFPTE), AFL-CIO. Learn more at www.speea.org.

###

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Bill Dugovich, SPEEA Communications Director, 206-683-9857

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- APR 15, 2021

AARP Foundation Client Wins Summary Judgment in California Superior Court Case Against Nursing Facility That Dumped Her into a Hospital

AARP Foundation Sued Nursing Facility Chain to Stop Illegal Practice of "Patient Dumping"

SACRAMENTO—A court in California has ruled in favor of AARP Foundation and BraunHagey & Borden (BHB) client Gloria Single and her son, who sued a national nursing facility chain for illegally transferring her to a hospital and refusing to readmit her, an action referred to as "patient dumping." In the first California case of its type, AARP Foundation and BHB sued Retirement Housing Foundation and its facility, Cathedral Pioneer Church Homes II (Pioneer House), to stop them from dumping their residents. The Superior Court of California ruled that Pioneer House violated Ms. Single's rights and the law by refusing to readmit her after she was temporarily hospitalized.

"Each year, nursing facility residents like Gloria Single are illegally evicted from nursing facilities without any place to go. No one should have to endure the trauma that Ms. Single and her family went through. The court's decision to hold Pioneer House accountable for dumping Ms. Single sends a strong message that this behavior will not be tolerated," said Meryl Grenadier, AARP Foundation Attorney.

AARP Foundation and BHB attorneys sued Pioneer House and five related facilities in California, their parent entity Retirement Housing Foundation, and associated management companies. Pioneer House, in Sacramento, Calif., sent Ms. Single to the hospital for a psychological evaluation and refused to readmit her even when she was cleared by the hospital to return. By law in California, nursing facilities are required to hold a resident's bed if they are transferred to the hospital, and can only discharge them against their will under limited circumstances. Facilities must provide 30 days' notice and an opportunity for a hearing before discharging a resident.

Ms. Single's son represented her in an administrative hearing challenging the illegal discharge, and won, but the facility still refused to take Ms. Single back. As a result, Ms. Single lived in a hospital for several months while her son searched for a new nursing facility. During that time, she lost much of her cognitive and physical abilities, and passed away in 2019. She was never reunited with her husband, who also died while the lawsuit was pending.

"Resident dumping is one of the gravest dangers to nursing home residents, and it results from a combination of greed by the facilities and the State's refusal to enforce its own hearing orders and laws," said Mathew Borden of BHB. "We intend to hold chains that engage in this unlawful business practice responsible until the industry changes."

"Nobody should have to go through what my mom and I suffered," said Ms. Single's son Aubrey Jones. "Retirement Housing Foundation claimed that it cared about family, but it refused to obey the law and intentionally prevented my mom from ever seeing her husband again."

AARP Foundation and BHB are seeking an injunction that would compel the facilities to comply with all provisions protecting against illegal transfers and discharges so that people like Ms. Single do not have to endure what she endured. The case also seeks damages for Ms. Single's family.

# # #

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About BraunHagey & Borden

BHB is a boutique with more than 30 attorneys headquartered in San Francisco that routinely handles high profile, complex litigation and significant pro bono and impact litigation, such as litigation to protect nursing home residents, litigation to protect the rights of the media to cover Black Lives Matter protests, litigation to facilitate the shutdown of coal power plants, and litigation to challenge the ongoing dictatorship in Cambodia.

For further information: AARP External Relations, media@aarp.org, 202-434-2560

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FOR IMMEDIATE RELEASE:
April 11, 2018

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Lawsuit Filed Against New York State and Adult Homes to Stop Discrimination Against People Using Wheelchairs

Suit Challenges Blanket Bans on Wheelchair Users

New York, NY—Mobilization for Justice (formerly MFY Legal Services) and AARP Foundation filed a lawsuit today in the Southern District of New York against New York State and four adult homes, alleging discrimination against people who use wheelchairs. The suit was brought on behalf of the Fair Housing Justice Center (FHJC) along with one resident and her representative who allege she was barred from returning to her home of five years after she began using a wheelchair at a rehabilitation facility.

The lawsuit challenges discrimination by four adult homes that are licensed by the State to provide housing and services to people with disabilities, but in practice deny people applying to live in the homes and evict residents already living in the homes who use wheelchairs. The suit also alleges that New York State promotes disability discrimination through its regulations and policies, including its policy permitting adult homes to ban wheelchair users from admission.

"Banning residents who use wheelchairs to get around their home and their community is blatant discrimination on the basis of disability and a violation of federal law," said Susan Ann Silverstein, Senior Attorney at AARP Foundation Litigation.

After receiving complaints of wheelchair discrimination from residents, FHJC conducted testing at the four adult homes operated by defendants Village Housing Development Fund, Elm York LLC, Madison York Assisted Living Community LLC, and Madison York Rego Park LLC. FHJC's investigation revealed that the defendant adult homes had blanket policies barring wheelchair users, regardless of their individual needs or abilities, and steered applicants who use wheelchairs to nursing homes.

"People with disabilities who use wheelchairs must have equal access to housing opportunities and assisted living services that are available to others. The State needs to enact and enforce regulations that promote non-discrimination in adult care facilities and assisted living programs so that they fully comply with federal civil rights mandates," said Fred Freiberg, Executive Director at FHJC.

All of the defendant adult homes have elevators and all have assisted living programs, which are funded to provide a variety of supports to people with disabilities, including personal care and home health services. They receive between approximately $33,000 and $55,000 annually per person to provide assisted living services for each resident enrolled in the program. Collectively, the defendant adult homes are licensed to house over seven hundred people.

"As soon as a resident begins to use a wheelchair, the adult home claims they are inappropriate for assisted living and sends them to a nursing home," said Jota Borgmann, Senior Staff Attorney at Mobilization for Justice. "And, worse yet, New York State shamefully maintains that it is perfectly fine for adult homes to discriminate against people who use wheelchairs."

New York State Department of Health regulations state that adult homes and assisted living programs should not admit or retain people who are "chronically chairfast." The regulations were enacted in 1978. This was prior to passage of the federal Fair Housing Act, the Americans with Disabilities Act, the Affordable Care Act, and prior to the Supreme Court's decision in ***Olmstead v. L.C.***, which made it clear that unnecessarily relegating people with disabilities to institutional settings is illegal discrimination. Yet the State has never updated the regulations to comply with federal protections against disability discrimination, despite being informed by advocates on multiple occasions over the years that the regulations are unlawful.

# # #

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About the Fair Justice Housing Center

The mission of the FHJC, a nonprofit civil rights organization, is to eliminate housing discrimination; promote policies and programs that foster open, accessible, and inclusive communities; and strengthen fair housing enforcement in the New York City region.

About Mobilization for Justice

Mobilization for Justice's (MFJ) (formerly MFY Legal Services) mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. MFJ does this by providing the highest quality direct civil legal assistance, conducting community education and building partnerships, engaging in policy advocacy, and bringing impact litigation.

AARP Foundation
For a future without senior poverty.

FOR IMMEDIATE RELEASE
Wednesday, January 2, 2019
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Reverse Mortgage Lender Live Well Financial and Servicer Celink Sued for Practices That Increase Risk of Foreclosure for Older Homeowners

Class Action Suit Charges That Reverse Mortgage Lender and Servicer Cause Homeowners to Accrue Thousands of Dollars of Debt

Central Islip, N.Y. - Live Well Financial, Inc., and Compu-Link Corporation ("Celink") put older Americans at risk of foreclosure through mortgage servicing practices that violate homeowners' reverse mortgage contracts and other laws, according to a class action lawsuit filed in the United States District Court for the Eastern District of New York.

Lawyers from AARP Foundation, Tusa P.C., and Giskan Solotaroff & Anderson, LLP filed this suit on behalf of a nationwide class of reverse mortgage borrowers.

The suit alleges that the companies improperly pay homeowners' property taxes before the taxes become due without contractual or legal justification to do so, and without notice. The companies then demand, under threat of foreclosure, that the homeowners personally repay the amount improperly advanced to prepay taxes. When the homeowners are unable or unwilling to agree to the repayment demands, the companies file for foreclosure on the entire loan, adding related charges, costs, attorneys' fees, and other amounts to the homeowners' loan balances.

Homeowners suffer thousands of dollars in lost home equity and risk losing their homes altogether as a result of these practices, the suit alleges.

The practices alleged in the complaint are of special concern to older homeowners. The reverse mortgages here were "Home Equity Conversion Mortgages" or "HECM loans." These loans allow homeowners who are 62 and over to convert part of their home equity into cash without having to sell their home or make monthly mortgage payments.

The complaint alleges that, in December 2015, Live Well and Celink prematurely paid property taxes of a New York State homeowner who had obtained a reverse mortgage from Live Well Financial. Under that mortgage, the homeowner had elected to pay her own property taxes. Live

Well and Celink nevertheless paid the taxes despite the fact that the homeowner was not delinquent in paying those taxes and had not committed any breach of contract that would have warranted this action by Live Well and Celink. The companies also failed to give timely notice to the plaintiff of their action, leading to double payment of the taxes.

The companies then demanded repayment of the improper tax advance, even after it had been added to the principal of the reverse mortgage. After the homeowner justifiably refused, the companies filed a foreclosure suit to force repayment of that tax advance, imposing thousands of dollars in unjustified foreclosure attorney fees and other related charges onto the loan balance. When the homeowner paid the demand as a last resort, the companies finally withdrew their foreclosure suit. However, they refused to remove the associated charges, fees, and interest from the loan balance.

"This case shows how homeowners with reverse mortgages who have performed all their contractual obligations can be forced into foreclosure and charged thousands of dollars in added fees and costs," said Julie Nepveu, senior attorney at AARP Foundation. "Federally insured reverse mortgage loans were developed to help prevent foreclosure when older homeowners want to access their home's equity to meet their financial needs, not to enrich the lenders at the borrower's expense."

According to Joseph Tusa of Tusa P.C., "It's shameful what Live Well Financial and Celink are doing. Many older Americans have worked long and hard for their homes and should not be subject to the tactics used by Live Well Financial and Celink to steal the equity in that home or even take the home altogether."

"Federal and New York law have safeguards to make sure that homeowners receive adequate notice of issues relating to their reverse mortgages. Those laws and regulations do not seem to have been followed here," added Oren Giskan of Giskan Solotaroff & Anderson.

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Tusa P.C. is a boutique law firm representing consumers, borrowers, and shareholders in class actions. Based in New York, Tusa P.C litigates in the federal and state courts nationwide. Please visit our website, www.tpcnylaw.com.

Giskan, Solotaroff & Anderson, LLP is a New York City based firm that represents employees in employment and civil rights matters, and consumers and small businesses in class actions. *See* www.gslawny.com.

AARP FOUNDATION AMICUS BRIEFS REGARDING ERISA PENSION RIGHTS

AARP FOUNDATION AMICUS BRIEFS re: THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 ("ERISA"), 29 U.S.C. §§ 1001, et seq. (Partial list)

Hughes v. Northwestern Univ., 142 S. Ct. 737 (2022) (investment fees)

Rutledge v. Pharm. Care Mgmt. Ass'n, 141 S. Ct. 474 (2020) (ERISA preemption)

Intel Corp. Inv. Pol'y Comm. v. Sulyma, 140 S. Ct. 768 (2020) (ERISA statute of limitations)

Thole v. U.S. Bank, N.A., 140 S. Ct. 1615 (2020) (standing in defined-benefit class cases)

Gobeille v. Liberty Mut. Ins. Co., 577 U.S. 312 (2016) (ERISA preemption)

Tibble v. Edison Int'l, 575 U.S. 523 (2015) (fiduciary duty to monitor investments)

CIGNA Corp. v. Amara, 563 U.S. 421 (2011) (remedies in ERISA class actions)

LaRue v. DeWolff, Boberg & Assocs., Inc., 552 U.S. 248 (2008) (civil enforcement provision)

Cent. Laborers' Pension Fund v. Heinz, 541 U.S. 739 (2004) (anti-cutback rule).

Smith v. Triad Manufacturing, 13 F.4th 613 (7th Cir. 2022) (whether must arbitrate versus bringing ERISA plan participant lawsuits)

Dorman v. Charles Schwab, 780 F. App'x 510, 513 (9th Cir. 2019) (same)

Munro v. Univ. of S. Cal., 896 F.3d 1088 (9th Cir. 2018) (same)

Cottillion v. United Ref. Co., 781 F.3d 47 (3d Cir. 2015) (anti-cutback rule and fiduciary duty)

Advoc. Health Care Network v. Stapleton, 137 S. Ct. 1652 (2017) (scope of ERISA "church plan" exemption)

AARP FOUNDATION ATTORNEY STAFF

AARP FOUNDATION (/AARP-FOUNDATION/)

Who We Are

William Alvarado Rivera

Senior Vice President, Litigation

AARP Foundation (/aarp-foundation/)

William (Bill) Alvarado Rivera is Senior Vice President for Litigation at AARP Foundation, where he leads and provides strategic direction for **AARP Foundation Litigation (/aarp-foundation/our-work/legal-advocacy/)** (AFL).

As the head of AFL, Bill manages a team of litigators who advocate nationwide for the rights of people age 50 and older, addressing diverse legal issues that affect their daily lives and ensuring that they have a voice in the judicial system. The team litigates and files amicus briefs in cases involving, among other things, employment discrimination; employee benefits; housing; consumer issues, including financial fraud and utility issues; health and long-term care; and public benefits.

Bill has over 20 years of experience in law and public policy, specializing in litigation and policy issues affecting low-income families. Bill started his career as a trial attorney in the Civil Division of the U.S. Department of Justice under the Attorney General's Honors Program. He later served as Senior Advisor to the Commissioner and Acting Deputy Commissioner of the Federal Office of Child Support Enforcement.

Prior to joining the Foundation, Bill served as Deputy Associate General Counsel and Chief of Litigation for the Children, Families, and Aging Division of the U.S. Department of Health and Human Services (HHS) Office of the General Counsel. Among other things, he led HHS's legal team in handling matters arising under the Temporary Assistance for Needy Families, Foster Care, Child Support, Head Start, Unaccompanied Alien Children, and Refugee Resettlement programs. Bill also was the lead attorney for aging and disability programs funded by the HHS Administration for Community Living.

Bill received his undergraduate degree with honors in Public Policy and American Institutions from

Brown University and his law degree from Stanford Law School. He spent a year as a Fulbright Scholar in Sweden, where he conducted research on ethnography and social welfare policy at the University of Stockholm. Bill has served on a number of non-profit boards, including as President of the Hispanic Bar Association of the District of Columbia in 2011.

AARP Foundation Executive Leadership Team

- **Emily Allen (/aarp-foundation/about-us/executive-leadership/emily-allen/)**, Interim President, Senior Vice President of Programs
- **William (Bill) Alvarado Rivera**, Senior Vice President, Legal Advocacy
- **Patricia D. Shannon (http://www.aarp.org/aarp-foundation/about-us/executive-leadership/trish-shannon/)**, Senior Vice President Strategic Planning & Chief Financial Officer
- **David P. Whitehead (http://www.aarp.org/aarp-foundation/about-us/executive-leadership/david-whitehead/)**, Senior Vice President & Chief Development Officer

What We Do (http://www.aarp.org/aarp-foundation/about-us/?intcmp=FDN-FTR-LINKS)

Find Help (http://www.aarp.org/aarp-foundation/find-help?intcmp=FDN-FTR-LINKS)

Charity Rating (http://www.aarp.org/aarp-foundation/about-us/charity-rating/)

Volunteer (/aarp-foundation/get-involved/?intcmp=FOU-NAV-VOL)

Our Supporters (http://www.aarp.org/aarp-foundation/our-work/sponsors-supporters/?intcmp=FDN-FTR-LINKS)

Giving (/aarp-foundation/ways-to-give/)

Make a Tax-Deductible Gift

Help AARP Foundation increase economic opportunity and social connectedness that can prevent and reduce senior poverty.

DONATE TODAY (HTTPS://FOUNDATION.AARP.ORG/SITE/DONATION/DONATE-TODAY

WHAT WE DO

PROGRAMS AND SERVICES

AARP FOUNDATION (/AARP-FOUNDATION/)
/ WHAT WE DO (/AARP-FOUNDATION/OUR-WORK/)

Legal Advocacy

Kelly Bagby, Vice President

AARP Foundation Litigation (/aarp-foundation/our-work/legal-advocacy/), April 11, 2018

Kelly Bagby is the Vice President at AARP Foundation Litigation (AFL) managing the office's work related to health, hunger, housing and human services. Kelly specializes in civil rights, disability rights, health law and other public interest areas, with an emphasis on litigation. She has been a part of AFL's Health Team since 2008. She has litigated a range of discrimination and public interest cases in federal and state courts. Prior to joining AFL, she worked for the Office of Counsel for the Office of Inspector General (OIG) for the United States Department of Health and Human Services. From 1998 to 2004, Kelly was the litigation director at Disability Rights D.C. and worked at Disability Rights Maryland before that.

Kelly has served as class counsel in a number of cases that have permitted people to age in place in the community rather than be forced to have their long term services provided in nursing facilities. *Darling v. Douglas* (*Cota v. Maxwell-Jolly*), 688 F. Supp. 2d 980 (N.D. Cal. 2010); *Brown v. District of Columbia* (Case No. 10-02250). Kelly was co-counsel in several cases in which nursing facility residents were administered psychotropic medications without informed consent. She has been working on patient dumping for the past several years and is counsel to a victim of dumping in a high profile case in California. Kelly files amicus briefs in state and federal courts that relate to ensuring that victims of abuse and neglect are able access the judicial system for redress.

Get Involved SEE MORE > (/AARP-FOUNDATION/GET-INVOLVED/)

Find Volunteer Opportunities (http://createthegood.org/volunteer-search?keywords=AARP%20Foundation&search_radius=25&showup_page=0&anytime=on)

Volunteer with Experience Corps (/experience-corps/)

Dean Graybill, Vice President

AARP Foundation Litigation (/aarp-foundation/our-work/legal-advocacy/), April 11, 2018

Dean Graybill is a Vice President for Litigation with AARP Foundation focusing on employment, income, and consumer issues. Formerly Dean served as a consumer protection attorney at the Federal Trade Commission (FTC) for over three decades in a wide variety of management and litigation positions. Appointed to the Senior Executive Service, he served in the 1990s as the head manager of both the Enforcement Division and the Service Industry Practices Division (DSIP). In three years, DSIP brought over forty federal court cases halting economic and health care frauds, many targeting older Americans (*e.g.*, "Project Senior Sentinel"). In two enforcement "sweeps" alone, the Division halted prize promotion and investment frauds costing consumers over $250 million.

Later, as deputy manager of the FTC's San Francisco office, Dean supervised litigation teams attacking a wide range of predatory practices spawned by the 2009 financial crisis. This included cases combatting bogus "foreclosure rescue" offers, deceptive payday loans, and debt collection abuses targeting financially strapped consumers, many of them seniors. In one such case, the team won a victory at trial against a work-at-home internet scheme victimizing over 250,000 consumers. *FTC v. Commerce Planet, Inc.*, 878 F. Supp. 2d, 1048 (C.D. Cal. 2012), *aff'd in part*, 815 F.3d 593 (9th Cir. 2016).

Throughout his career, most recently in the FTC's Advertising Practices Division, Dean has investigated or litigated numerous other issues affecting older Americans, including the false advertising of health products, weight loss programs, and medical devices; and anticompetitive restraints on the low-cost provision of health care.

Get Involved SEE MORE > (/AARP-FOUNDATION/GET-INVOLVED/)

AARP FOUNDATION (/AARP-FOUNDATION/)

What We Do

AARP Foundation Litigation Team

AARP Foundation (/aarp-foundation/)

William A. Rivera (https://www.aarp.org/aarp-foundation/about-us/executive-leadership/William-Alvarado-Rivera.html) - Senior Vice President, Litigation

Kelly Bagby (/aarp-foundation/our-work/legal-advocacy/info-2018/Kelly-Bagby-bio.html) - Vice President, Litigation (Housing, Health and Human Services)

Dean Graybill (/aarp-foundation/our-work/legal-advocacy/info-2018/Dean-Graybill-bio.html) - Vice President, Litigation (Income, Consumer, and Employment)

AARP Foundation Litigation (AFL) is an advocate in courts nationwide for the rights of people 50 and older, addressing diverse legal issues that affect their daily lives and assuring that they have a voice in the judicial system.

Our Team

Elizabeth Aniskevich

Elizabeth Aniskevich is a Senior Attorney at AARP Foundation. Her work focuses on protecting the rights of older adults through vigorous advocacy. Elizabeth litigates a variety of cases, ranging from consumer protection, to housing, to employment matters, and has vast experience litigating class actions. She also regularly writes amicus briefs for state and federal courts across the country. Prior to joining the Foundation, Elizabeth worked to protect the integrity of financial markets through representation of investors in securities class actions and shareholder litigation. She also clerked in the Eastern District of Virginia where she managed the court's pro se prisoner docket. Elizabeth graduated valedictorian from the University of Florida, with a double B.A. in Sociology and Criminology and received her J.D.

from American University, Washington College of Law. In addition to her work for the Foundation, Elizabeth serves on the D.C. Bar Foundation's Young Lawyers Leadership Network Council.

Meryl Grenadier

Meryl Grenadier is a Senior Attorney at AARP Foundation Litigation. Her work involves nationwide impact litigation and legal advocacy on behalf of low income older adults. She works on matters involving health law, civil rights, elder abuse, retirement benefits, and consumer protection. Prior to joining AARP Foundation, Meryl was an associate at a D.C. boutique litigation firm where she worked on a variety of complex matters, including whistleblower matters, consumer class actions, and commercial disputes. Meryl serves on the National Academy of Elder Law Attorneys Litigation Committee, and is former co-chair of the D.C. Bar Foundation's Young Lawyers Network Leadership Council. Meryl holds a B.A. in political science and a B.S. in journalism from Boston University, and a J.D. from Northeastern University School of Law.

Maame Gyamfi

Maame Gyamfi is Senior Attorney at the AARP Foundation Litigation. Ms. Gyamfi is a health care expert who advocates nationwide for the rights of low-income older adults, addressing diverse issues that affect their daily lives and ensuring that they have a voice in the judicial system. She works on matters involving health law, civil rights, elder abuse, disability rights, consumer protection, and other public interest areas. Prior to coming to AFL, Ms. Gyamfi was Senior Counsel at the Office of the Inspector General, U.S. Department of Health and Human Services where she worked on health care fraud and compliance matters. She also litigated criminal and civil cases as a Special Assistant United States Attorney for the U.S. District Courts of the Southern District of Florida and the Eastern District of New York. Ms. Gyamfi is a graduate of Georgetown University Law Center and the University of California at Berkeley.

Daniel Kohrman

Dan Kohrman is a Senior Attorney with the AARP Foundation's legal advocacy unit, AARP Foundation Litigation (AFL). Dan represents older workers in class action and individual litigation in trial courts and AARP itself in amicus briefs in appellate courts, including the US Supreme Court. Most of Dan's cases involve claims under the Age Discrimination in Employment Act (ADEA) and/or the Americans with Disabilities Act (ADA). He also has filed many briefs for AARP challenging state voter ID laws. Dan has been with AFL since 2001. He previously worked for theCivil Rights Division of the U.S. Justice Department, the Lawyers Committee for Civil Rights Under Law, and the law firm of Hogan & Hartson (now Hogan Lovells). Dan received a BA from Yale College, a master's degree from the Woodrow Wilson School at Princeton University and his JD from Columbia Law School. From 1984-85 Dan served as a law clerk for the Hon. Stanley S. Brotman in the U.S. District Court in Camden, N.J. Dan has three children in their twenties.

Ali Naini

Ali Naini joined AARP Foundation Litigation after a career in the District of Columbia Attorney General's Office and the non-profit organization Mobilization for Justice (formerly "MFY").

Ali, who speaks English, Farsi, and Turkish, has shown a keen interest in public policy since his early days at the University of Virginia, researching microfinancing in Cairo and later working with the Harlem Children's Zone on health, financial, and housing projects.

In law school, he served as managing editor of the *George Washington Law Review.* He then earned his litigation spurs in a three-year stint at the D.C. Attorney General's Office. He won 4 of 4 jury trials and 21 of 24 court motions, handling a wide variety of litigation tasks relevant to AFL's work. In 2016, he again chose public interest work, serving as senior staff attorney at MFY's Foreclosure Prevention Project in New York City. There, he tirelessly represented low-income clients facing loss of their homes, handling individual cases, lobbying for reforms, and first-chairing a trial.

Julie Nepveu

Julie Nepveu is a Senior Staff Attorney at AARP Foundation Litigation. She advances the interests of older people nationwide in the areas of access to courts, consumer protection, mortgage and reverse mortgage servicing and foreclosure defense, fair housing, disability rights, and public utilities. Her work includes litigating cases, filing amicus briefs, and drafting comments on proposed federal regulation and legislation, and providing support to AARP state office staff. Julie previously worked as Staff Attorney at the National Lawyers' Committee For Civil Rights Under Law in the Housing and Community Development Project. Prior to that, she represented low income and subsidized tenants at Legal Services of Northern Virginia. Julie also served as a judicial law clerk at the U.S. Claims Court to the Hon. Thomas J. Lydon. Julie earned her BA from the University of Vermont and her JD from the University of Maine School of Law. The Maine State Bar Association honored Julie with its Pro Bono Award in 1991.

Stefan Shaibani

Stefan Shaibani is an alumnus of Stanford Law School, a former Law Clerk at the U.S. Court of Appeals for the Ninth Circuit, and a former Trial Attorney at the U.S. Department of Justice, Commercial Litigation Branch. Mr. Shaibani is an attorney at the AARP Foundation Litigation, where he represents plaintiffs in disability, consumer, and employment class actions.

Prior to joining AARP Foundation Litigation, Mr. Shaibani operated a solo and small firm practice for 16 years representing plaintiffs in automobile negligence, premises liability, first-party insurance, and business tort cases in the DC metropolitan area. In this capacity, Mr. Shaibani conducted bench and jury trials, depositions, mediations, and worked with expert witnesses in fields such as orthopedics, neurosurgery, neurology, pathology, oncology, vocational rehabilitation, economics, accident reconstruction, and premises security. Mr. Shaibani has represented many indigents, disadvantaged and elderly clients who sustained harms and losses by the negligence of individuals and corporations defended by casualty insurers.

Susan Ann Silverstein

Ms. Silverstein is a Senior Attorney for AARP Foundation Litigation where she works on fair housing, disability rights and low income issues. Ms. Silverstein has litigated significant cases establishing the rights of people with disabilities in public and private housing, including assisted living, retirement communities and in the context of community planning and redevelopment. She was lead counsel in *Cason v. Rochester Housing Authority*, the first case brought on behalf of renters with disabilities under the 1988 Fair Housing Amendments Act that established that housing providers could not determine whether applicants were capable of living independently, but could only screen for their ability to meet relevant lease requirements. She was a leader in defending disparate impact under the Fair Housing Act as co-counsel in *Citizens in Action v. Mt. Holly Township* through its appeal to the U.S. Supreme Court and as author of the Supreme Court amicus on behalf of AARP, Lambda Legal Defense, National Disability Rights Network, and several other organizations. Ms. Silverstein received her BS from the Massachusetts Institute of Technology and her JD from Columbia University School of Law. She was a Community Builder Fellow with the Department of Housing and Urban Development in conjunction with the Harvard Kennedy School of Government. She began her career as a Reginald Heber Smith Fellow at Southern Tier Legal Services in Bath, NY, and worked for other legal services offices in Western New York.

EXHIBIT B

EXHIBIT B TO DECLARATION OF JULIE NEPVEU

AARP'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]														Total Hours	Rate	Total Fees
NAME	2	3	4	5	6	7	8	9[2]	10	11	12	13	14	18			
Nepveu, Julie (Senior Attorney)	21.2	3.0	8.9	3.6	4.2	17.3	18.8	36.9	16.0	21.6	26.6	29.1	40.0	40.9	288	$712.23[3]	$205,123.10
Graybill, Dean (Managing Attorney)	0	11.5	0	22.7	0	0	0.7	0	1.9	0	13.7	0	3.5	2.7	56.7	$800	$45,320.00
205123.1/ Yellin, David (Lead Attorney)	0	0	0	0	1.4	0	2.0	0	0	0	5.0	0	0	6.3	14.7	$600	$8,812.00
TOTALS	**21.2**	**14.5**	**8.9**	**26.3**	**5.6**	**17.3**	**21.5**	**36.9**	**17.9**	**21.6**	**45.3**	**29.1**	**43.5**	**49.9**	**359.4**		**$259,255.10**

Key of billing category codes:

[1] Code 1 is excluded from this chart as no AARP attorneys or staff spent time on this category during the relevant time period. Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.
[2] The billing rate for Category 9: Document Review is capped at $473/hour according to the Protocol for Time and Expense Reporting created by Co-Lead Counsel.
[3] Blended rate.

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1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances
7. Legal Research	8. Discovery	9. Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

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EXHIBIT C

EXHIBIT C TO DECLARATION OF JULIE NEPVEU

AARP'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

Expense Category Code		Amount
1	Litigation Fund Assessments	$70,000
2	Federal Express / Local Courier	
3	Postage Charges	
4	Facsimile Charges	
5	Long Distance Charges	
6	In-House Photocopying	
7	Outside Photocopying	
8	Hotels	$930.85
9	Meals	$105.81
10	Mileage	
11	Air Travel	$386.52
12	Deposition Costs	
13	Lexis/Westlaw/PACER	
14	Witness and Expert Expenses	
15	Court Fees	
16	Investigation Fees / Service Fees	
17	Hearing and Trial Transcripts	
18	Ground Transportation	$455.24
19	Miscellaneous	
TOTAL AARP EXPENSES		**$71,878.42**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF DHAMIAN BLUE IN SUPPORT OF PLAINTIFFS' PETITION FOR ATTORNEYS' FEES FROM THE AMEC AND NEWPORT SETTLEMENTS

I, DHAMIAN BLUE, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney licensed to practice law in the State of North Carolina, and I am a partner at Blue LLP in Raleigh, North Carolina. I was appointed to the Plaintiffs' Steering Committee by the Court on August 4, 2022 (ECF No. 68) and my firm was one of the firms appointed as Class Counsel for purposes of the AME Settlement and the Newport Settlement by this Court in its March 24, 2025 Order preliminarily approving the proposed settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF No. 775.)

2. I am submitting this declaration in support of Plaintiffs' petition for attorneys' fees and expenses and service awards for the appointed Class Representatives in connection with the AME and Newport Settlements.

3. I am the attorney from my firm who has been responsible for this matter for the entirety of the litigation thus far. Blue LLP's firm resume, including a description of our firm and the attorneys who assisted on this case, is attached hereto as **Exhibit A**.

4. Since being consolidated as an MDL in June of 2022, I have assisted Co-Lead

Counsel and the rest of the Plaintiffs' Steering Committee in litigating various aspects of the case as described in Co-Lead Counsel Matthew Lee's declaration.

5. Adhering to the Protocol for Time and Expense Reporting established by Co-Lead Counsel at the onset of this MDL, my firm submitted our contemporaneous time and expense records to Co-Lead monthly. Blue LLP's attorneys and staff categorized their time spent on this litigation into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

6. In connection with preparing the monthly time and expense reports submitted to Co-Lead Counsel and with preparing this declaration, I have reviewed Blue LLP's time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by Blue LLP on this litigation from inception through March 31, 2025 is 285.5 hours. Based on our current billing rates,

Blue LLP's total lodestar for this litigation from inception through March 31, 2025 is $171,300.00. A summary breakdown of Blue LLP's lodestar is provided in **Exhibit B**.

7. The hourly rate shown in **Exhibit B** my firm's current billing rate for commercial cases. This hourly rate does not apply to the contingency fee cases that we customarily litigate because it does not take into account the risk of no recovery and our firm's advancement of litigation costs, such as in this case.

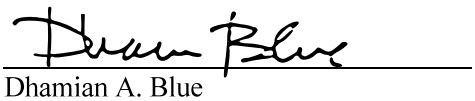
8. Regarding expenses, at the outset of the litigation the Plaintiffs' Steering Committee established a Litigation Fund to facilitate the sharing of certain costs, such as deposition transcripts, document repository services, expert witness and consultant fees, and mediation fees. My firm has contributed to this Litigation Fund on three occasions for a total of $70,000.00. **Exhibit C** reflects Blue LLP's contributions to the Litigation Fund.

9. Additionally, my firm has incurred costs related to such activities as travel for status conferences and travel for depositions. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**.

10. After my review and submission to Co-Lead Counsel, the total amount of expenses incurred from the inception of this litigation through March 31, 2025 for which Blue LLP is seeking reimbursement is $72,171.88.

11. To summarize, for purposes of this petition for attorneys' fees and expenses, the total lodestar for Blue LLP is $171,300.00 and the total expenses for which Blue LLP is presently seeking reimbursement is $72,171.88. I believe that these totals reflect reasonable and necessary time spent and expenses incurred while litigating on behalf of Plaintiffs and the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this the 5th of May 2025, at Raleigh, North Carolina.



Dhamian A. Blue

EXHIBIT A

EXHIBIT A TO DECLARATION OF DHAMIAN A. BLUE

BLUE LLP

205 Fayetteville Street
Raleigh, North Carolina 27601
(919) 833-1931
www.bluellp.com

Blue LLP is a boutique law firm that represents individual and commercial clients on a range of matters that include commercial litigation, commercial transactions, criminal and regulatory defense, and general counseling work. Each of the firm's lawyers has significant experience in their substantive areas of practice, and is committed to representing the firm's clients with the highest level of competence and ethical standards.

Blue LLP is based in Raleigh, North Carolina. Its lawyers have taken seriously their professional obligation to the firm's clients as well as their civic responsibility as lawyers to improve the local community. In this regard, the firm's lawyers have been engaged significantly in public service, served on the boards of local colleges, universities, and other non-profits, and undertaken a tremendous amount of pro bono work.

The firm is proud of its record of achievement, and always looks forward to helping its clients meet their legal challenges.

DANIEL T. BLUE, JR.

Daniel T. Blue, Jr. helped found Thigpen Blue & Stephens (now Blue LLP) in 1976. Dan represents several individuals and businesses in civil litigation, administrative, estate, and public finance matters. Dan has more than 50 years of experience in the law, and has represented clients on significant matters throughout the country. He is regarded by his colleagues as an exceptional lawyer, having been awarded the John B. McMillan Distinguished Service Award from the North Carolina State Bar, and the Joseph Branch Professionalism Award, the highest honor bestowed by the Wake County Bar Association.

Dan earned a B.S. degree in Mathematics from North Carolina Central University in 1970. Thereafter, he attended Duke University School of Law, where he distinguished himself and graduated in 1973. Upon graduation, Dan was hired by one of North Carolina's leading law firms, Sanford, Cannon, Adams & McCullough (now Parker, Poe, Adams, and Bernstein LLP), and became one of the first black attorneys to integrate one of the state's major law firms.

In 1980, Dan was elected to the North Carolina House of Representatives, representing Wake County. He was re-elected ten times, and held several leadership positions in the House. On January 30, 1991, Dan was elected Speaker of the North Carolina House of Representatives. He was re-elected in January of 1993. After serving twenty-two years in the House of Representatives, in 2002 he left the Legislature to run for the United States Senate. Dan returned to the House in 2006, and moved to the State Senate in 2009.

Dan also has served as Chairman of the Board of Trustees of Duke University and on the Duke University Health System Board. He has served on the Executive Board for the Center on Ethics in Government and Advocacy in Denver, Colorado, the Advisory Council for the Association of Governing Boards for Colleges and Universities in Washington, DC., and as President of the National Conference of State Legislatures. Dan also has served as a director of First Bank. He is a Permanent Member of the Judicial Conference of the Fourth Circuit.

DHAMIAN A. BLUE

Dhamian Blue joined Blue LLP in 2007, following four years of private practice in Washington, D.C. Since joining the firm, Dhamian has developed a complex commercial litigation and catastrophic injury practice. He has litigated consumer fraud cases against powerful interests in state and federal courts and defended individual and corporate defendants against claims brought by several state attorneys general and the Federal Trade Commission. Dhamian has been recognized by Super Lawyers Magazine and Business North Carolina (Legal Elite) for his work. Representative complex litigation cases include: *Nieman v. Duke Energy*, No. 3:12-cv-456-MOC (W.D.N.C.) (appointed liason counsel in a securities class action that resulted in a $146.25 million class settlement); *Ollila v. Babcock & Wilcox Enterprises*, 3:17-cv-109-MOC (W.D.N.C.) (appointed liason counsel in a securities class action that resulted in a $19.5 million class settlement); *Martinez et al. v. Alpha Technologies Services et al.*, 5:17-cv-628 (E.D.N.C.) (co-lead class counsel in wage and hour class action that resulted in a court-approved settlement); *Williams et al. v. The Estates et al.*, No. 1:19-cv-01076 (M.D.N.C.) (co-lead counsel for plaintiffs in an antitrust bid-rigging trial that resulted in a $1.2 million jury verdict, permanent injunction, and attorney's fee award); *Federal Trade Commission et al. v. Affiliated Strategies et al.*, No. 5:09-cv-4104 (D. Kan.) (represented defendants in a telemarketing fraud case resulting in settlement).

Dhamian also maintains an active criminal defense practice, mostly in federal court. He has represented clients who have been prosecuted for serious felonies that include wire and/or mail fraud, bank fraud, drug trafficking, armed robbery, first-degree murder, and various other offenses. His experience includes multiple jury trials and oral argument in the Fourth Circuit. In *United States v. Simms*, 914 F.3d 229 (4th Cir. 2019) (en banc), Dhamian successfully brief and argued before the Fourth Circuit, sitting en banc, that 18 U.S.C. § 924(c)(3)(B) is unconstitutionally vague, and that conspiracy to commit Hobbs Act robbery is not a "crime of violence," as defined in § 924(c)(3)(A).

Dhamian began his legal career as an associate in the Litigation and Dispute Resolution Group of Dickstein Shapiro LLP in Washington, D.C., where he represented corporate policyholders against insurance companies regarding claims for environmental liability, products liability, professional malpractice liability, and foreign asset expropriation.

Dhamian graduated from the Duke University School of Law in May 2003. He earned a B.A. from Duke in 2000. He majored in both Public Policy Studies and Economics. He has served as the chairman of the Board of Advisors for Duke Raleigh Hospital, a member of the Board of Directors of the Duke University Health System, a member of the Board of Visitors for the Duke University School of Medicine, a member of the Board of Directors of the Boys and Girls Club of Wake County, and the co-chairman of the Board of Directors of the North Carolina Justice Center. He is a Permanent Member of the Judicial Conference of the Fourth Circuit.

DANIEL T. BLUE, III

Daniel T. Blue, III represents individuals and businesses in civil litigation, transactions and general advisory. Representative matters include business formation and financing, business development, corporate governance, corporate counsel, contract compliance and dispute resolution. Dan's corporate clients include small start-up companies, family-owned businesses, educational and charitable institutions and joint partnerships. Dan also devotes a substantial amount of his practice as outside counsel to a local university.

Prior to joining Blue LLP, Dan served as Executive Director of the Pharmaceutical Institute, leading provider of specialized training to pharmaceutical and biotechnology professionals. In 2004, Dan founded and launched the startup company from its parent company, Campbell Alliance, a privately-held management consulting firm specializing in the pharmaceutical and biotech industry.

Prior to launching the Pharmaceutical Institute, Dan worked as an investment banker with Bear, Stearns & Co. in New York where he served healthcare clients, including pharmaceutical, biotechnology, diagnostic and service companies, providing financing, advisory and investment services.

Dan graduated from the Duke University School of Law and the Duke University Fuqua School of Business in May 2001, with degrees in law and business and a focus on corporate finance and entrepreneurship. He earned a Bachelor of Science in Engineering from Duke University in 1995, where he studied biomedical engineering with a minor in public policy studies. Dan currently serves on the board of Wake Med.

EXHIBIT B

EXHIBIT B TO DECLARATION OF DHAMIAN A. BLUE

BLUE LLP'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]											Total Hours	Rate	Total Fees
NAME	2	3	4	6	7	8	10	11	12	14	18			
Dhamian Blue (Partner)	43.6	26.7	11	30.7	20.8	77.7	8.9	1.4	32.9	11	14.8	279.5	$600	$167,700.00
Daniel T. Blue, III (Partner)	0	0	0	0	1.1	0	4.9	0	0	0	0	6	$600	$3,600.00
TOTALS	**43.6**	**26.7**	**11**	**30.7**	**21.9**	**77.7**	**13.8**	**1.4**	**32.9**	**11**	**14.8**	**285.5**		**$171,300.00**

Key of billing category codes:

1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances
7. Legal Research	8. Discovery	9. Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

[1] Codes 1, 5, 9, and 13 are excluded from this chart as no Blue LLP attorneys or staff spent time on these categories during the relevant time period. Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.

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EXHIBIT C

EXHIBIT C TO DECLARATION OF DHAMIAN BLUE

BLUE LLP'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

Expense Category Code		Amount
1	Litigation Fund Assessments	$70,000.00
2	Federal Express / Local Courier	
3	Postage Charges	
4	Facsimile Charges	
5	Long Distance Charges	
6	In-House Photocopying	
7	Outside Photocopying	
8	Hotels	$944.97
9	Meals	
10	Mileage	$225.12
11	Air Travel	$848.21
12	Deposition Costs	
13	Lexis/Westlaw/PACER	
14	Witness and Expert Expenses	
15	Court Fees	
16	Investigation Fees / Service Fees	
17	Hearing and Trial Transcripts	
18	Ground Transportation	$153.58
19	Miscellaneous	
TOTAL BLUE LLP EXPENSES		**$72,171.88**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF SUSAN L. METER IN SUPPORT OF PLAINTIFFS' PETITION FOR ATTORNEYS' FEES FROM THE AMEC AND NEWPORT SETTLEMENTS

I, Susan L. Meter, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a Partner at Kantor & Kantor LLP ("Kantor & Kantor") headquartered in Northridge, California. I was appointed to the Plaintiffs' Steering Committee by the Court on August 19, 2024 (ECF No. 456)[1] and my firm was one of the firms appointed as Class Counsel for purposes of the AME Settlement and the Newport Settlement by this Court in its March 24, 2025 Order preliminarily approving the proposed settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF No. 775.)

2. I am submitting this declaration in support of the Plaintiffs' petition for attorneys' fees and expenses and service awards for the appointed Class Representatives in connection with the AME and Newport Settlements.

[1] On this date I was substituted into my colleague, Elizabeth Hopkins's, position on the Plaintiffs' Steering Committee. Ms. Hopkins had been originally appointed to the Plaintiffs' Steering Committee by the Court on August 4, 2022 (ECF No. 68).

3. I have worked with and/or supervised all Kantor & Kantor's attorneys and staff responsible for this matter for the entirety of the litigation thus far. Kantor & Kantor's firm resume, including a description of our firm and the attorneys who assisted on this case, is attached hereto as **Exhibit A**.

4. Since being consolidated as an MDL in June of 2022, I have assisted Co-Lead Counsel and the rest of the Plaintiffs' Steering Committee in litigating various aspects of the case as described in Co-Lead Counsel Matthew Lee's declaration.

5. Adhering to the Protocol for Time and Expense Reporting established by Co-Lead Counsel at the onset of this MDL, my firm submitted our contemporaneous time and expense records to Co-Lead monthly. Kantor & Kantor's attorneys and staff categorized their time spent on this litigation into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

6. In connection with preparing the monthly time and expense reports submitted to

Co-Lead Counsel and with preparing this declaration, I have reviewed Kantor & Kantor's time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by Kantor & Kantor on this litigation from inception through March 31, 2025 is 1655.7. Based on our current billing rates, Kantor & Kantor's total lodestar for this litigation from inception through March 31, 2025 is $1,526,702.50. A summary breakdown of Kantor & Kantor's lodestar is provided in **Exhibit B**.

7. The hourly rates shown in **Exhibit B** are Kantor & Kantor's standing billing rates for contingent cases and are consistent with hourly rates submitted by my firm in other class action or complex litigation. For personnel who are no longer employed by Kantor & Kantor, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment at Kantor & Kantor.

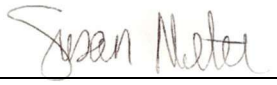
8. Regarding expenses, at the outset of the litigation the Plaintiffs' Steering Committee established a Litigation Fund to facilitate the sharing of certain costs, such as deposition transcripts, document repository services, expert witness and consultant fees, and mediation fees. My firm has contributed to this Litigation Fund on three occasions for a total of $70,000. **Exhibit C** reflects Kantor & Kantor's contributions to the Litigation Fund.

9. Additionally, my firm has incurred a number of costs related to such activities as filing fees, service of process; service of subpoenas; travel for hearings or status conferences and travel for depositions. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**.

10. After my review and submission to Co-Lead Counsel, the total amount of expenses incurred from the inception of this litigation through March 31, 2025 for which Kantor & Kantor is seeking reimbursement is $119,260.68.

11. To summarize, for purposes of this petition for attorneys' fees and expenses, the total lodestar for Kantor & Kantor is $1,526,702.50 and the total expenses for which Kantor & Kantor is presently seeking reimbursement is $119,260.68. I believe that these totals reflect reasonable and necessary time spent and expenses incurred while litigating on behalf of Plaintiffs and the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this the 5th of May, 2025, at San Diego, California.



Susan L. Meter

EXHIBIT A

ABOUT KANTOR & KANTOR LLP

Kantor & Kantor is a law firm specializing in nationwide employee benefit and insurance litigation under ERISA and state law, including cases involving retirement, disability, health, and life insurance benefits. The firm was ranked first in U.S. News' "Best Lawyers--Best Law Firms" for its legal advocacy in ERISA litigation in 2020-2024. The attorneys of Kantor & Kantor have unsurpassed experience in the ERISA field and have helped tens of thousands of participants in both individual and complex class actions obtain millions of dollars of benefits to which they are entitled and ensure the proper management and administration of their employee benefits plans.

Kantor & Kantor attorneys are currently litigating numerous important putative class actions on behalf of ERISA plan participants across the country, including:

- ***Molly C. v. Oxford Health Insurance***, Case No. 1:22-CV-10144-PGG (S.D.N.Y.) (putative class action challenging exclusion of nutritional counseling for eating disorder patients under mental health parity provisions of ERISA).

- ***Greenwell v. Group Health Plan for Employees of Sensus USA Inc.***, Case no 5:19-CV- 577-FL (E.D.N.C.) (putative class action of all ERISA plan participants and beneficiaries of ERISA plans administered by Blue Cross in North Carolina alleging improper denial of proton beam radiation therapy).

- ***Weissman v. United Healthcare Ins. Co.***, Civil Action No. 19-cv-10580 (D. Mass.) (putative class action alleging improper administration of ERISA healthcare plans with regard to proton beam radiation therapy).

The firm has obtained favorable results in many other complex class actions, including:

- ***Bailey v. Anthem Blue Cross Life & Health Insurance Company*****,** Case No. 4:16-cv-04439 (N.D. Ca.) (successful ERISA class action challenging Anthem's failure to pay for medically necessary treatment for eating disorders that settled with qualifying class members eligible for either reprocessing of their claims or a set payment).

- ***Rea v. Blue Shield of California***, No. BC 468900 (Los Angeles County Superior Court) (state court class action successfully challenging Blue Shield's exclusion for residential treatment for eating disorders under California Mental Health Parity law that settled for reprocessing of claims).

- ***Ames v. Anthem Blue Cross Life & Health Insurance Company***, No. BC591623 (Los Angeles County Superior Court) (state court class action successfully challenging Anthem's failure to pay for certain substance abuse treatment claims and settling for either reprocessing of these claims or a set payment).

- ***Kerr v. Kaiser Foundation Health Plan, Inc.***, No. BC556863 (Los Angeles County Superior Court) (State court class action challenging Kaiser's practice of cancelling class members' health care coverage to gain admission to a locked residential

psychiatric facility. Settled as a class action with Kaiser issuing notices to Kaiser employees regarding coverage for locked residential psychiatric facilities and how Kaiser member in LPS conservatorships should be transferred to those facilities. In addition, qualifying class members whose coverage was cancelled could reenroll in a Kaiser health care plan.)

- ***Gottlieb v. Conseco Senior Health Ins. Co.***, No. CV-11-02203, 2013 WL 12125742 (C.D. Ca. Mar. 12, 2013) (certifying class and approving class action settlement imposing permanent injunction on insurance company with respect to coverage of long-term care).

- ***Sherman v. Allstate Ins. Co.***, No. BC 187659 (Los Angeles County Superior Court) (class action against Allstate that settled for reprocessing of the insurance claims of 2,300 homeowners following the Northridge earthquake and led to the recovery of over $100,000,000).

Attorneys at Kantor & Kantor have successfully briefed ERISA cases in the Supreme Court and in every federal court of appeals, as well as numerous federal district and state courts, in cases such as: ***Intel Corporation Investment Policy Committee v. Sulyma***, 140 S. Ct. 768 (2020); ***Gobeille v. Liberty Mutual Life Ins. Co.***, 577 U.S. 312 (2016); ***Fifth Third Bankcorp v. Dudenhoeffer***, 573 U.S. 409 (2014); ***MetLife v. Glenn***, 554 U.S. 105 (2008); ***LaRue v. DeWolff, Boberg & Assoc.***, 552 U.S. 248 (2008); ***Rush Prudential HMO, Inc. v. Moran***, 536 U.S. 355 (2002); ***Osberg v. Foot Locker***, 862 F.3d 198 (2d Cir. 2017); ***Milofsky v. Am. Airlines***, 442 F.3d 311 (5th Cir. 2006) (en banc); and ***In re Enron Corp. Securities, Derivative ERISA Litig.***, 284 F. Supp. 2d 511 (S.D. Tex. 2003). Indeed, Kantor & Kantor has represented plaintiffs in many seminal ERISA cases, such as: ***Ariana M. v. Humana Health Plan of Texas***, 884 F.3d 246 (5th Cir. 2018) (en banc); ***Harlick v. Blue Shield of California***, 656 F.3d 832 (9th Cir. 2011); and ***Collier v. Lincoln Life Assurance Co. of Boston*** (9th Cir. 2022).

Kantor & Kantor attorneys are regular contributors to employee benefits treatises, journals and other legal resources including the American Bar Association *Employee Benefits Law*, ABA newsletters, Law360, and are regular speakers at ERISA and other conferences across the country. The firm produces a widely distributed and frequently quoted weekly newsletter, *ERISA Watch*, that analyzes every ERISA decision issued that week.

Attorney Bios
Elizabeth Hopkins Partner

Elizabeth Hopkins is a partner and head of the pension practice at Kantor & Kantor, LLP, one of the premiere plaintiff-side ERISA firms in the nation. She has practiced in the field of employee benefits since 1989 and is a well-known practitioner and expert in the complexities of ERISA, topics on which she often writes and lectures. Since joining Kantor & Kantor in 2018, she has helped plan participants recover significant injunctive and monetary relief, in both individual cases and class actions, e.g., *Bailey v. Anthem Blue Cross Health & Life Ins. Co.*, No. 4:16-cv-04439- JSW (N.D. Cal.), and has succeeded in making important Circuit Court precedent for participants. E.g., *Dawson-Murdock v. Nat'l Counseling Grp., Inc.*, 931 F.3d 269 (4th Cir. 2019). She is currently leading litigation in a number of collective and class actions on behalf of thousands of ERISA plan participants nationwide, in both federal and state court. *Ryan S v. UnitedHealth Group*, No. 8:19- cv-01363-JVS (C.D. Cal.) (putative class action against insurance company that administers healthcare plans to remedy fiduciary breaches with respect to benefits for substance use disorders and related mental health care); *Cockerill v. Corteva, Inc.*, Case No. 2:21-CV-03966 (E.D. Pa) (class action to recover early retirement benefits for participants of the DuPont Pension and Retirement Plan); *Bafford v. Northrop Grumman*, Case No. 18-cv-10219-ODW-E (C.D. Ca.) (putative class action for failure of plan administrator to furnish pension benefit statements in compliance with ERISA); *Bafford v. Alight Solutions, LLC*, Case No. 22STCV14718 (Superior Court California) (putative class action alleging professional negligence and negligent misrepresentation in the calculation of pension benefits and distribution of erroneous pension benefit statements); *Hoffman v. United Airlines*, Case No. 1:22-cv-01311 (N.D. Ill.) (putative class action asserting ERISA and state law claims for early out benefits for retirees), *Konya v. Lockheed Martin Corporation et al.*, Case No. 8:24-cv-00750-BAH (D. Md.) (putative class action asserting ERISA claims related to pension risk transfer), *Doherty v. Bristol-Myers Squibb Co.*, Case No. 1:24-cv-06628-MMG (S.D.N.Y.), *Shoen v. ATI, Inc. et al.*, Case No. 2:24-cv-01109-KT (W.D. Pa.) (putative class action asserting ERISA claims related to pension risk transfer) and *Piercy v. AT&T, Inc., et al.*, Case No. 1:24-cv-10608-NMG (D. Mass.) (putative class action asserting ERISA claims related to pension risk transfer). As an attorney at Kantor & Kantor, she has also filed amicus briefs in the Supreme Court in *Intel Corporation Investment Policy Committee v. Sulyma*, 140 S. CT. 768 (2020), *Thole v. U.S. Bank N.A.*, 140 S. Ct. 1615 (2020), and *Little Sisters of the Poorv. Pennsylvania*, 140 S. Ct. 2367 (2020).

Ms. Hopkins obtained her law degree from Georgetown University Law Center in 1986. For more than three decades prior to joining Kantor & Kantor, Ms. Hopkins worked as an attorney for the Office of the Solicitor, United States Department of Labor. During most of that time she was an ERISA litigator and advisor, working with others at the highest levels of the Department of Justice, the Solicitor General's Office, the White House, and elsewhere in the federal government to formulate and implement policy with regard to pensions and other employee benefits. Immediately after being appointed as counsel for appellate and special litigation in 2002, she authored the primary legal brief in the Enron ERISA litigation, which ultimately led to a settlement of $85 million. From that time until 2017, she authored or supervised over 100 party

and amicus curiae briefs in federal courts across the country, including every federal Circuit Court of Appeals, argued many of these cases, and participated in formulating positions and briefing in dozens of cases in the Supreme Court. Indeed, she worked on many of the most important ERISA cases of the past two decades, as well on many complex regulatory issues and groundbreaking court challenges to ERISA, the Affordable Care Act, and regulations adopted by the Department of Labor.

In addition to her work as an ERISA litigator and advisor with Kantor & Kantor, Ms. Hopkins is a member of the Advisory Council on Employee Welfare and Pension Benefit Plans, also known as the ERISA Advisory Council. The members of the Council advise the Secretary of Labor and submit recommendations regarding the Secretary's function under ERISA. She is also a Fellow of the American College of Employee Benefit Counsel, a prestigious organization whose chosen members must have a minimum of 20 years of experience in the field of employee benefits. She has served as a judge for the College's annual writing competition and for its moot court competition. Ms. Hopkins has also participated in many dozens of activities for bar and other legal associations over the years, including for the American Bar Association (ABA). She serves as a senior editor for the ABA's seminal treatise on ERISA, Employee Benefits Law. Ms. Hopkins is the co-editor of ERISA Watch, a widely distributed and regularly quoted weekly newsletter published by Kantor & Kantor, that analyzes every reported ERISA decision. She is a guest contributor to Law360, providing expert analysis on ERISA topics. In addition to her legal, writing and teaching activities, Ms. Hopkins has been a lifelong volunteer for a variety of organizations and is motivated in all her activities by a desire to help others and to achieve justice.

Susan Meter Partner

Susan Meter, a Partner at Kantor & Kantor, represents clients in a variety of employee benefits matters and has a wide range of experience with pension and other employee benefit plans. She has appeared before numerous federal courts and appellate courts and recovered millions of dollars for plan participants. In addition to her work as an ERISA litigator, Ms. Meter brings a unique and invaluable set of skills because she also has experience designing and drafting retirement plans, representing plans before the Department of Labor and Internal Revenue Service, has worked for plan recordkeepers, and, prior to obtaining her law degree, she worked for BlackRock financial management as an analyst for Institutional Funds department, where she obtained her Series 6 and 63 financial licenses.

Ms. Meter obtained her law degree from California Western School of Law in 2004 and became licensed in the state of California on May 2, 2005. She has been practicing in the field of ERISA, retirement plan and other employee benefits for over 20 years.

Ms. Meter's current practice focuses on retirement plans, including breach of fiduciary duty and benefit claims under ERISA, and related state law claims. Ms. Meter is currently co-counsel in other several putative class action lawsuits involving retirement plans: *Cockerill v. Corteva, Inc.*, Case No. 2:21-CV-03966 (E.D. Pa); *Bafford v. Northrop Grumman*, Case No. 18-cv-10219-ODW-E (C.D. Ca.); *Bafford v. Alight Solutions, LLC*, Case No. 22STCV14718 (Superior Court California); *Hoffman v. United Airlines*, Case No. 1:22-cv-01311 (N.D. Ill.), *Konya v. Lockheed Martin Corporation et al.*, Case No. 8:24-cv-00750-BAH (D. Md.), *Doherty v. Bristol-Myers Squibb Co.*, Case No. 1:24-cv-06628-MMG (S.D.N.Y.), *Shoen v. ATI, Inc. et al.*, Case No. 2:24-cv-01109-KT (W.D. Pa.) and *Piercy v. AT&T, Inc., et al.*, Case No. 1:24-cv-10608-NMG (D. Mass.).

Ms. Meter is a member of the American Bar Association and a member of the Employee Benefits Committee, a subcommittee of the ABA. She has most recently been a speaker on Hot Topics in Employee Benefits Litigation for the ABA TIPS (Tort Trial and Insurance Practice) mid-winter meeting.

Scott Lempert Partner

Scott Lampert was a partner at Kantor & Kantor, LLP in the firm's employee benefits and ERISA practice, an area in which he has practiced for over 20 years. Directly relevant to the claims in the Alexander complaint, Mr. Lempert has litigated a number of class action cases asserting that non-profit healthcare systems wrongfully claimed their pension plans were exempt from ERISA's statutory and regulatory requirements under ERISA's church plan exemption, and even if they were are exempt, the plans' governing documents demanded that they comply with ERISA requirements under state and common law. See, e.g., *Hodges, et al. v. Bon Secours Health System, Inc*., No. 1:16-cv-01079 (D. Md.) ($98.3 million settlement); *Garbaccio v. St. Joseph's Hospital and Medical Center and Subsidiaries*, No. 2:16- cv-02740 (D.N.J.) ($42.5 million settlement); *Kaplan v. Saint Peter's Healthcare System*, No. 13-cv-2941 (D.N.J.). Additionally relevant to the cases before the Court, which allege fiduciary misconduct related to the Church's plan investments, Mr. Lempert also served as one of the lead counsel in complex class action ERISA cases alleging that employers breached their fiduciary duties and violated the statute's prohibition on self-dealing in the selection, retention and monitoring of underperforming and expensive 401(k) plan investments. See, e.g., *Fuller v. SunTrustBanks, Inc.*, No.1:11-cv-784-ODE, 2019 WL 5448206, at*1 (N.D. Ga. Oct.3, 2019) ($29 million settlement); *Becker et al. v. Wells Fargo & Co*., No. 20-cv-2016 (D. Minn.) ($32.5 million settlement); *Feinberg v. T. Rowe Price Grp., Inc.*, No. 1: 17-cv- 427 JKB, 2021 WL 1102455, at *1 (D. Md. Mar. 23, 2021) (settlement valued at over $15 million).

Mr. Lempert is a chapter editor for the American Bar Association's Employee Benefits Law treatise, has authored numerous articles on employee benefit litigation and has served on CLE panels focused on ERISA. He earned his law degree from the University of Pennsylvania Law School in 1995. Mr. Lempert believes all attorneys have a responsibility to perform pro bona work and has served as a member of the board and co-chaired the attorney volunteer committee of Philadelphia's Support Center for Child Advocates, a non-profit agency representing abused and neglected children in the custody of the city's Department of Human Services. He has represented children on behalf of the agency for nearly two decades. A long- standing member of his synagogue, Mr. Lempert has served as its vice president, treasurer and as a trustee for more than 10 years.

Jaclyn Conover

Ms. Conover is a partner at Kantor & Kantor and civil litigation attorney, advocating for clients whose insurance claims have been wrongfully denied. She specializes in long-term disability and long-term care bad faith litigation. For the first decade of her career, Ms. Conover represented insurance companies in bad faith, fraud, and all forms of coverage-related litigation. She has handled both state and federal cases, advocating for insurance carriers in legal venues throughout California and Pennsylvania. Jaclyn also advised large multinational insurance companies on coverage opinions, addressing complex issues under a wide array of insurance lines, including homeowners, D&O, commercial general and automobile liability policies.

Ms. Conover graduated from Rutgers School of Law with Honors in 2009. She is licensed to practice in California, Pennsylvania, Arizona and New Jersey. She is admitted to practice in the Northern, Eastern, Central and Southern Districts of California as well as the Eastern District of Pennsylvania.

Ms. Conover is the American Bar Association Tort Trial and Insurance Practice (TIPS) Life, Health and Disability Committee Membership Vice-Chair and Chair-Elect Designee. She is also a faculty member of the National Institute of Trial Advocacy (NITA).

EXHIBIT B

EXHIBIT B TO DECLARATION OF SUSAN L. METER

KANTOR & KANTOR'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]														Total Hours	Rate	Total Fees
NAME	2	3	4	5	6	7	8	9[2]	10	11	12	13	14	18			
Elizabeth Hopkins (Senior Partner)	22	5.6	20.3	1.5	22.6	10.9	36.9	2.9	37.2	73.2	60.5	0	32.6	2	328.2	$1275	$416,129.20
Susan Meter (Partner)	21.9	17.6	10	2.3	20.4	4.8	87	117.3	27.8	509.9	24.5	20.4	56.2	82.2	1,002.3	$900	$851,982.90
Scott Lempert (Partner)	0	0	39.2	0	24.3	35.5	73.9	3.2	35.5	0	101.5	0	0	2.3	315.4	$800	$251,273.60
Jaclyn Conover (Partner)	0	0	0	0	0	0	0	1.6	8.2	0	0	0	0	0	9.8	$800	$7,316.80
TOTALS	**43.9**	**23.2**	**69.5**	**3.8**	**67.3**	**51.2**	**197.8**	**125**	**108.7**	**583.1**	**186.5**	**20.4**	**88.8**	**86.5**	**1655.7**		**$1,526,702.50**

[1] Code 1 is excluded from this chart as no AARP attorneys or staff spent time on this category during the relevant time period. Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.

[2] The billing rate for Category 9: Document Review is capped at $473/hour according to the Protocol for Time and Expense Reporting created by Co-Lead Counsel.

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Key of billing category codes:

1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances
7. Legal Research	8. Discovery	9. Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

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EXHIBIT C

KANTOR & KANTOR LLP
9301 CORBIN AVENUE, SUITE 1400 ▪ NORTHRIDGE ▪ CA 91324
TEL (818) 886-2525 ▪ FAX (818) 350-6272
WWW.KANTORLAW.NET

EXHIBIT C TO DECLARATION OF SUSAN METER

KANTOR & KANTOR'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

Expense Category Code	Amount
1. Assessment Fees	$70,000
2. Federal Express / Local Courier, etc.	$74.67
3. Postage Charges	
4. Facsimile Charges	
5. Long Distance	
6. In-House Photocopying	
7. Outside Photocopying	$2,341.27
8. Hotels	$18,322.03
9. Meals	$1,589.34
10. Mileage	
11. Air Travel	$17,806.09
12. Deposition Costs	
13. Lexis/Westlaw/PACER	
14. Witness and Expert Expenses	
15. Court Fees	$402
16. Investigation Fees / Service Fees	$5,020.80
17. Hearing and Trial Transcripts	
18. Ground Transportation (i.e. rental car, taxi)	$3,536.54
19. Miscellaneous (Describe)	$167.94
TOTAL KANTOR EXPENSES	**$119,260.68**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF KENNETH S. BYRD IN SUPPORT OF PLAINTIFFS' PETITION FOR ATTORNEYS' FEES FROM THE AMEC AND NEWPORT SETTLEMENTS

I, Kenneth S. Byrd, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney licensed to practice law in the State of Tennessee. I am a partner at Lieff Cabraser Heimann & Bernstein, LLP ("LCHB") in Nashville, Tennessee. I was appointed to the Plaintiffs' Steering Committee by the Court on August 4, 2022 (ECF No. 68) and my firm was one of the firms appointed as Class Counsel for purposes of the AME Settlement and the Newport Settlement by this Court in its March 24, 2025 Order preliminarily approving the proposed settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF No. 775.)

2. I am submitting this declaration in support of the Plaintiffs' petition for attorneys' fees and expenses and service awards for the appointed Class Representatives in connection with the AME and Newport Settlements.

3. I have supervised all LCHB attorneys and staff responsible for this matter for the entirety of the litigation thus far. LCHB's firm resume, including a description of our firm and the attorneys who assisted on this case, is attached hereto as **Exhibit A**.

4. Since being consolidated as an MDL in June of 2022, I have assisted Co-Lead Counsel and the rest of the Plaintiffs' Steering Committee in litigating various aspects of the case as described in Co-Lead Counsel Matthew Lee's declaration.

5. Adhering to the Protocol for Time and Expense Reporting established by Co-Lead Counsel at the onset of this MDL, my firm submitted our contemporaneous time and expense records to Co-Lead monthly. LCHB's attorneys and staff categorized their time spent on this litigation into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

6. In connection with preparing the monthly time and expense reports submitted to Co-Lead Counsel and with preparing this declaration, I have reviewed LCHB's time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by LCHB on this litigation

from inception through March 31, 2025 is 3,065.70. Based on our current billing rates, LCHB's total lodestar for this litigation from inception through March 31, 2025 is $2,567,697.10. A summary breakdown of LCHB's lodestar is provided in **Exhibit B**.

7. The hourly rates shown in **Exhibit B** are LCHB's standing billing rates for contingent cases and are consistent with hourly rates submitted by my firm in other class action or complex litigation. For personnel who are no longer employed by LCHB, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment at LCHB.

8. Regarding expenses, at the outset of the litigation the Plaintiffs' Steering Committee established a Litigation Fund to facilitate the sharing of certain costs, such as deposition transcripts, document repository services, expert witness and consultant fees, and mediation fees. My firm has contributed to this Litigation Fund on three occasions for a total of $70,000. **Exhibit C** reflects LCHB's contributions to the Litigation Fund.

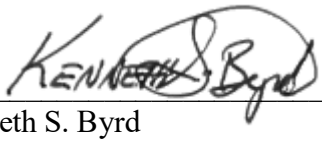
9. Additionally, my firm has incurred a number of costs related to such activities as travel for hearings or status conferences; travel for depositions; printing and copying; and witness and expert expenses. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**.

10. After my review and submission to Co-Lead Counsel, the total amount of expenses incurred from the inception of this litigation through March 31, 2025 for which LCHB is seeking reimbursement is $143,170.08.

11. To summarize, for purposes of this petition for attorneys' fees and expenses, the total lodestar for LCHB is $2,567,697.10 and the total expenses for which LCHB is presently seeking

reimbursement is $143,170.08. I believe that these totals reflect reasonable and necessary time spent and expenses incurred while litigating on behalf of Plaintiffs and the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this the 6th of May, 2025, at Nashville, Tennessee.



Kenneth S. Byrd

EXHIBIT A

LIEFF CABRASER FIRM RESUME

Lieff Cabraser Heimann & Bernstein, LLP

Lieff Cabraser Heimann & Bernstein, LLP is a 135+ attorney AV-rated law firm founded in 1972 with offices in San Francisco, New York, Nashville, and Munich. We have a diversified practice successfully representing plaintiffs throughout the U.S. and Europe in the fields of antitrust, civil rights and social justice, consumer protection, cybersecurity and data privacy, economic injury product defects, employment discrimination and unfair employment practices, environmental and toxic exposures, False Claims Act, personal injury and products liability, securities and financial fraud, and survivor rights and advocacy. Our clients include individuals, classes, groups of people, businesses, and public and private entities.

Lieff Cabraser has served as Court-appointed Plaintiffs' Lead or Class Counsel in state and federal coordinated, multi-district, and complex litigation throughout the United States. The Firm has, often with co-counsel, represented clients from across the globe in cases filed in American courts and in foreign jurisdictions.

This Firm Resume summarizes Lieff Cabraser's extensive and varied cases, including past successes and active matters; identifies the Firm's lawyers with links to their full biographies; and describes the Firm's community and legal organization engagement.

SAN FRANCISCO
NEW YORK
NASHVILLE
MUNICH
lieffcabraser.com

Lieff Cabraser Heimann & Bernstein
Attorneys at Law

LIEFF CABRASER FIRM RESUME

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ANTITRUST

At the forefront of innovative and landmark cases promoting fair competition in the marketplace, Lieff Cabraser assists companies, governments, and consumers affected by anticompetitive conduct by assessing market circumstances and advising whether and how to pursue legal action. When we do advise litigation, our track record reflects remarkable successes for our clients.

Representative Current Cases

ELECTRICAL MEDICAL TRUST ET AL. V. U.S. ANESTHESIA PARTNERS ET AL.

Lieff Cabraser represents self-funded insurers who allege a multi-year scheme by private equity groups U.S. Anesthesia Partners, Inc. and Welsh, Carson, Anderson & Stowe to monopolize hospital anesthesia services in Texas, drive up prices, and increase profits. Filed in November 2023, the class action complaint alleges that defendants pursued an "aggressive 'buy and build' consolidation strategy" to increase negotiating leverage with commercial payors and increase prices for anesthesia services without improving the efficiency or quality of healthcare. Plaintiffs seek to vindicate their rights under the federal antitrust laws and restore competition for anesthesiology services.

***DALE, ET AL. V. DEUTSCHE TELEKOM AG, T-MOBILE US, INC., AND SOFTBANK GROUP CORP., NO.* 1:22-CV-03189 (N.D. ILL.)**

In June 2022, Lieff Cabraser and co-counsel filed a federal class action complaint against Deutsche Telekom, T-Mobile, and Softbank Group challenging the merger of T-Mobile and Sprint, a merger that reduced the overall number of mobile carriers in the U.S. from four to three and thereby removed all meaningful incentives for competition between the three remaining behemoths: the new T-Mobile, AT&T, and Verizon. As a result, small businesses and consumers in the United States who subscribe to national retail mobile wireless carriers, including AT&T and Verizon customers, have paid and continue to pay billions more for wireless service than they would have.

The lawsuit seeks the restoration of competition in one of the world's largest and most concentrated markets. Every consumer and small business in the U.S. market is paying the price of this monstrously anticompetitive merger, including AT&T and Verizon customers who no longer face any pricing challenges from the former mavericks of the telecom space.

The case follows two prior pre-merger attempts to stop the deal by the United States Department of Justice and a lawsuit by ten states. In both instances, T-Mobile made commitments to government regulators and a federal district court to continue to fiercely compete and at the same time help DISH emerge as a strong fourth competitor to replace Sprint. Neither promise was fulfilled.

In bringing this action, AT&T and Verizon subscribers seek to vindicate their rights under the antitrust laws for all nationwide wireless plan subscribers on AT&T or Verizon's network; they seek to undo the merger, create the viable fourth competitor that was promised, and recover damages for the overcharges sustained in the interim.

REALPAGE RESIDENTIAL LEASE PRICE-FIXING

Lieff Cabraser represents lessees nationwide who allege they have overpaid for rent as a result of a cartel among the largest owners of multifamily residential real estate. The class action suit, filed in October 2022, alleges that these lessors used a common third party (RealPage) to collect and fix rent amounts, increasing rents above competitive levels. RealPage touts that it sets pricing for Lessors' properties "as though we own them ourselves" — in other words, as plaintiffs detail in their complaint, the participating Lessors' cartel replicates the market outcomes one would observe if they were a monopolist of residential leases (which is the goal of any cartel).

***IN RE LITHIUM-ION BATTERIES ANTITRUST LITIGATION,* MDL NO. 2420 (N.D. CAL.)**

Lieff Cabraser serves as Co-Lead Counsel representing indirect purchasers in a class

action filed against LG, GS Yuasa, NEC, Sony, Sanyo, Panasonic, Hitachi, LG Chem, Samsung, Toshiba, and Sanyo for allegedly conspiring to fix and raise the prices of lithium-ion rechargeable batteries from 2002 to 2011. The defendants are the world's leading manufacturers of lithium-ion rechargeable batteries, which provide power for a wide variety of consumer electronic products. As a result of the defendants' alleged anticompetitive and unlawful conduct, consumers across the U.S. paid artificially inflated prices for lithium-ion rechargeable batteries. Lieff Cabraser and co-counsel have reached settlements totaling $113.45 million with all defendants.

***IN RE TELESCOPES ANTITRUST LITIGATION,* NO. 5:20-CV-03639-EJD (N.D. CAL.)**

We serve as Interim Lead Counsel for indirect purchasers of amateur telescopes who allege an illegal price-fixing and market allocation scheme intended to monopolize the consumer telescope manufacture and distribution markets. As a result of this conduct, purchasers of consumer telescopes have been illegally overcharged hundreds of millions of dollars for telescopes since at least 2005. As the class action complaint alleges, manufacturers Synta and Ningbo Sunny leveraged their 80% share of the U.S. telescope market to improperly set prices and monopolize the consumer telescope market in violation of antitrust law.

***IN RE MISSION HEALTH ANTITRUST LITIGATION,* NO. 1:22-CV-00114-MR-WCM (W.D. N.C.)**

Lieff Cabraser and co-counsel represent consumer plaintiffs in litigation against HCA Healthcare/Mission Health alleging the hospital giant is abusing its market power to prevent insurers from offering patients financial incentives to use lower cost or higher quality services offered by competitors. As described in detail in the class action complaint, HCA Healthcare and Mission Health have restricted competition in their respective health care markets, substantially and artificially inflating health care prices paid by plaintiffs and the proposed class member health plans. The lawsuit alleges that Mission Health's illegal practices have allowed it to reduce competition and keep its reimbursement rates to insurers higher than they otherwise would be, causing patients to pay significantly more for insurance as a result. The case against Mission Health is proceeding.

***IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION,* MDL NO. 2724 (E.D. PA.)**

Beginning in February 2015, Lieff Cabraser conducted an extensive investigation into dramatic price increases of certain generic prescription drugs. Lieff Cabraser worked alongside economists and industry experts and interviewed industry participants to evaluate possible misconduct. In December of 2016, Lieff Cabraser, with co-counsel, filed the first case alleging price-fixing of Levothyroxine, the primary treatment for hypothyroidism, among the most widely prescribed drugs in the world. Lieff Cabraser also played a significant role in similar litigation over the drugs Propranolol and Clomipramine. These, and other similar cases, were consolidated and transferred to the Eastern District of Pennsylvania as *In Re: Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724. Lieff Cabraser is a member of the End-Payer Plaintiffs' Steering Committee.

***IN RE CALIFORNIA BAIL BOND ANTITRUST LITIG.,* 3:19-CV-00717-JST (N.D. CAL.)**

Lieff Cabraser serves as Interim Lead Class Counsel for a proposed class of purchasers of bail bonds in California. This first-of-its-kind class action antitrust case brought by Lieff Cabraser and leading non-profit worker rights organizations alleges that California insurance companies, sureties and bail agents have conspired to unlawfully inflate California bail bond premiums since 2004. We represent the California plaintiffs alleging illegal price-fixing and collusion agreements to eliminate competitive pricing to consumers. Plaintiffs have successfully overcome the preponderance of defendants' claims of immunity, and have shown sufficient facts of a plausible antitrust conspiracy, reinforcing the principle that antitrust laws can significantly impact intentional inequities and advance the cause of economic justice. In November 2022, the Court denied defendants' motion to dismiss claims from the suit. The litigation is ongoing.

***IN RE CAPACITORS ANTITRUST LITIGATION,* NO. 3:14-CV-03264 (N.D. CAL.)**

Lieff Cabraser is a member of the Plaintiffs' Steering Committee representing indirect purchasers in an electrolytic and film price-fixing class action lawsuit filed against the world's largest manufacturers of capacitors, used to store and regulate current in electronic circuits and computers, phones, appliances, and cameras worldwide. Lieff Cabraser has played a central role in discovery efforts, and assisted in opposing defendants' motions to dismiss and in opposing defendants' motions for summary judgment. Settlements with defendants NEC Tokin Corp., Nitsuko Electronics Corp., and Okaya Electric Industries Co., Ltd. have received final approval, and a settlement with Hitachi Chemical and Soshin Electric Co., Ltd. has received preliminary approval. Discovery continues with respect to the remaining defendants.

***IN RE DOMESTIC AIRLINE TRAVEL ANTITRUST LITIGATION,* 1:15-MC-01404 (DISTRICT OF COLUMBIA)**

Lieff Cabraser represents consumers in a class action lawsuit against the four largest U.S. airline carriers: American Airlines, Delta Air, Southwest, and United. These airlines collectively account for over 80 percent of all domestic airline travel. The complaint alleges that for years the airlines colluded to restrain capacity, eliminate competition in the market, and increase the price of domestic airline airfares in violation of U.S. antitrust law. The proposed class consists of all persons and entities who purchased domestic airline tickets directly from one or more defendants from July 2, 2011 to the present. In February 2016, Judge Kollar-Kotelly appointed Lieff Cabraser to the three-member Plaintiffs' Executive Committee overseeing this multidistrict airline price-fixing litigation. Defendants filed a motion to dismiss, which was denied in October 2016. Subsequently, a settlement with Southwest Airlines was granted preliminary approval. Litigation continues as to the remaining defendants.

INTERNATIONAL ANTITRUST CASES

Lieff Cabraser has significant experience and expertise in antitrust litigation in Europe. Lieff Cabraser partner Dr. Katharina Kolb, head of the firm's Munich office, has experience in all aspects of German and European competition law, particularly antitrust litigation matters following anti-competitive behavior established by European competition authorities including German Federal Cartel Office and the European Commission. Currently, one of the firm's major international antitrust cases involves the European truck cartel, which the European Commission fined more than €3.8 billion for colluding on prices and emissions technologies for more than 14 years. Lieff Cabraser is working with a range of funders to prosecute the claims of persons damaged by the European truck cartel, including many municipalities in Europe which purchased trucks for street cleaning, fire brigades, waste disposal, and other purposes.

Lieff Cabraser is also prosecuting other cartel damages cases in the EU, including the German quarto steel cartel, the German plant pesticides cartel, and the French meal voucher cartel, each of which have likely caused significant damages to customers.

***SCHWAB SHORT-TERM BOND MARKET FUND, ET AL. V. BANK OF AMERICA CORP., ET AL.,* NO. 11 CV 6409 (S.D.N.Y.); *CHARLES SCHWAB BANK, N.A., ET AL. V. BANK OF AMERICA CORP., ET AL.,* NO. 11 CV 6411 (S.D.N.Y.); *SCHWAB MONEY MARKET FUND, ET AL. V. BANK OF AMERICA CORP., ET AL.,* NO. 11 CV 6412 (S.D.N.Y.); *THE CHARLES SCHWAB CORP., ET AL. V. BANK OF AMERICA CORP., ET AL.,* NO. 13 CV 7005 (S.D.N.Y.); *AND BAY AREA TOLL AUTHORITY V. BANK OF AMERICA CORP., ET AL.,* NO. 14 CV 3094 (S.D.N.Y.) (COLLECTIVELY, "LIBOR")**

Lieff Cabraser serves as counsel for The Bay Area Toll Authority ("BATA"), as well as The Charles Schwab Corporation and certain Schwab Funds, in individual lawsuits against Bank of America Corporation, Credit Suisse Group AG, JPMorgan Chase & Co., Citibank, Inc., and additional banks for allegedly manipulating the London Interbank Offered Rate ("LIBOR").

The complaints allege that beginning in 2007, the defendants conspired to understate their true costs of borrowing, causing the calculation of LIBOR to be set artificially low. As a result, Schwab, the Schwab Funds, and BATA received less than their rightful rates of return on their LIBOR-based investments. The complaints assert claims under federal antitrust laws, the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), and the statutory and common law of California. The actions were transferred to the Southern District of New York for consolidated or coordinated proceedings with the LIBOR multidistrict litigation pending there.

ANTITRUST

Representative Achievements & Successes

***IN RE: RESTASIS ANTITRUST LITIGATION,* MDL NO. 2819 (E.D.N.Y.)**

Lieff Cabraser served as Co-Lead Counsel for indirect purchasers (third-party payors and consumers) of Restasis, a blockbuster drug used to treat dry-eye disease. With co-counsel, we filed the first two class actions on behalf of indirect purchasers of Restasis, alleging a broad-based and ongoing anticompetitive scheme by pharmaceutical giant Allergan to maintain a market monopoly. The complaints detail a complex scheme by Allergan to list invalid patents with the FDA, accompanied by sham transfers of the invalid patents to secure immunity from challenge. This alleged scheme of government petitioning delayed competition from generic equivalents to Restasis that would have been just as safe and cheaper for consumers.

After several other lawsuits were filed, the Judicial Panel on Multidistrict Litigation granted Lieff Cabraser's motion to centralize all cases for pretrial proceedings. In late 2018, plaintiffs successfully defeated defendant's motion to dismiss the case. In May of 2020, the Court granted plaintiffs' class certification motion and plaintiffs' motion to exclude two of the defendant's experts, and the Second Circuit Court of Appeals denied defendant's appeal. In October 2021, the parties announced a settlement that would provide $30 million to indirect Restasis purchasers. In August 2022, the Court approved the settlement.

***SEAMAN V. DUKE UNIVERSITY,* NO. 1:15-CV-00462 (M.D.N.C.)**

Lieff Cabraser represented Dr. Danielle M. Seaman and a certified class of over 5,000 academic doctors at Duke and UNC in a class action lawsuit against Duke University and Duke University Health System. The complaint charged that Duke and UNC entered into an express, secret agreement not to compete for each other's faculty. The lawsuit sought to recover damages and obtain injunctive relief, including treble damages, for defendants' alleged violations of federal and North Carolina antitrust law.

On February 1, 2018, U.S. District Court Judge Catherine C. Eagles issued an order certifying a faculty class.

On September 24, 2019, Judge Eagles granted final approval to the proposed settlement of the case, valued at $54.5 million. The settlement includes an unprecedented role for the United States Department of Justice to monitor and enforce extensive injunctive relief, which will ensure that neither Duke nor UNC will enter into or enforce any unlawful no-hire agreements or similar restraints on competition. Assistant Attorney General Delrahim remarked: "Permitting the United States to become part of this settlement agreement in this private antitrust case, and thereby to obtain all of the relief and protections it likely would have sought after a lengthy investigation, demonstrates the benefits that can be obtained efficiently for the American worker when public and private enforcement work in tandem."

***NASHVILLE GENERAL V. MOMENTA PHARMACEUTICALS, ET AL.,* NO. 3:15-CV-01100 (M.D. TENN.)**

Lieff Cabraser represented AFCSME DC 37 and the Nashville General Hospital (the Hospital Authority of the Metropolitan Government of Nashville) in a class-action antitrust case against defendants Momenta Pharmaceuticals and Sandoz, Inc., for their alleged monopolization of enoxaparin, the generic version of the anti-coagulant blood clotting drug Lovenox, a highly profitable drug with annual sales of more than $1 billion. The drug entered the market in 1995 and its patent was invalidated by the federal government in 2008, making generic production possible. The complaint alleged that defendants colluded to secretly bring the official batch-release testing standard for generics within the ambit of their patent, delaying the entry of the second generic competitor—a never-before-tried theory of liability. In 2019, the court certified a class of hospitals, third-party payors, and uninsured persons

in 29 states and DC, appointing Lieff Cabraser sole lead counsel. In 2019, the parties agreed to a proposed settlement totaling $120 million, the second largest indirect-purchaser antitrust pharmaceutical settlement fund in history after Cipro. On May 29, 2020, the Court granted final approval to the settlement.

***IN RE DISPOSABLE CONTACT LENS ANTITRUST LITIGATION,* MDL NO. 2626 (M.D. FLA.)**

Lieff Cabraser represented consumers who purchased disposable contact lenses manufactured by Alcon Laboratories, Inc., Johnson & Johnson Vision Care, Inc., Bausch + Lomb, and Cooper Vision, Inc. The complaint challenged the use by contact lens manufacturers of minimum resale price maintenance agreements with independent eye care professionals (including optometrists and ophthalmologists) and wholesalers. These agreements, the complaint alleged, operate to raise retail prices and eliminate price competition and discounts on contact lenses, including from "big box" retail stores, discount buying clubs, and online retailers. As a result, consumers across the United States paid artificially inflated prices. The case settled on terms favorable to plaintiffs.

***HALEY PAINT CO. V. E.I. DUPONT DE NEMOURS AND CO. ET AL.,* NO. 10-CV-00318-RDB (D. MD.)**

Lieff Cabraser served as Co-Lead Counsel for direct purchasers of titanium dioxide in a nationwide class action lawsuit against E.I. Dupont De Nemours and Co., Huntsman International LLC, Kronos Worldwide Inc., and Cristal Global (fka Millennium Inorganic Chemicals, Inc.), alleging a global cartel to fix the price of titanium dioxide, the world's most widely used pigment for providing whiteness and brightness in paints, paper, plastics, and other products.

Plaintiffs charged that defendants coordinated increases in the prices for titanium dioxide despite declining demand, decreasing raw material costs, and industry overcapacity. Unlike some antitrust class actions, Plaintiffs proceeded without the benefit of any government investigation or proceeding. Plaintiffs overcame attacks on the pleadings, discovery obstacles, a rigorous class certification process that required two full rounds of briefing and expert analysis, and multiple summary judgment motions. In August 2012, the Court certified the class. Plaintiffs prepared fully for trial and achieved a settlement with the final defendant on the last business day before trial. In December 2013, the Court approved a series of settlements with defendants totaling $163 million.

***CIPRO CASES I AND II,* JCCP NOS. 4154 AND 4220 (CAL. SUPR. CT.)**

Lieff Cabraser represented California consumers and third party payors in a class action lawsuit filed in California state court charging that Bayer Corporation, Barr Laboratories, and other generic prescription drug manufacturers conspired to restrain competition in the sale of Bayer's blockbuster antibiotic drug Ciprofloxacin, sold as Cipro. Between 1997 and 2003, Bayer paid its would-be generic drug competitors nearly $400 million to refrain from selling more affordable versions of Cipro.

The trial court granted defendants' motion for summary judgment, and the California Court of Appeal affirmed in October 2011. Plaintiffs sought California Supreme Court review. The case was stayed after briefing pending the U.S. Supreme Court's decision in *FTC v. Actavis*. Once the Supreme Court overturned lower federal court precedent from *Actavis* that pay-for-delay deals in the pharmaceutical industry were generally legal, plaintiffs and Bayer entered into settlement negotiations. In November 2013, the Trial Court approved a $74 million settlement with Bayer.

On May 7, 2015, the California Supreme Court reversed the grant of summary judgment to defendants and resoundingly endorsed the rights of consumers to challenge pharmaceutical pay-for-delay settlements under California competition law. Working to the brink of trial, the plaintiffs reached additional settlements with the remaining defendants that brought the total recovery to $399 million (exceeding plaintiffs' damages estimate by approximately $68 million), a result the trial court found "extraordinary." The trial court granted final approval on April 21, 2017, adding that it was "not aware of any case" that "has taken roughly 17 years," where, net of fees, end-payor "claimants will get basically 100 cents on the dollar[.]"

Lieff Cabraser's Cipro team received the 2017 American Antitrust Institute award for Outstanding Private Practice Antitrust Achievement for their

extraordinary work on the Cipro case. In addition, Lieff Cabraser partners Eric B. Fastiff, Brendan P. Glackin, and Dean M. Harvey shared *The California Lawyer* and *The Daily Journal* 2016 "California Lawyers of the Year" Award for their work on the case.

***IN RE TFT-LCD (FLAT PANEL) ANTITRUST LITIGATION,* MDL NO. 1827 (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Counsel for direct purchasers in litigation against the world's leading manufacturers of Thin Film Transistor Liquid Crystal Displays. TFT-LCDs are used in flat-panel televisions as well as computer monitors, laptop computers, mobile phones, personal digital assistants, and other devices. Plaintiffs charged that defendants conspired to raise and fix the prices of TFT-LCD panels and certain products containing those panels for over a decade, resulting in overcharges to purchasers of those panels and products.

In March 2010, the Court certified two nationwide classes of persons and entities that directly purchased TFT-LCDs from January 1, 1999 through December 31, 2006, one class of panel purchasers, and one class of buyers of laptop computers, computer monitors, and televisions that contained TFT-LCDs.

Over the course of the litigation, the classes reached settlements with all defendants except Toshiba. The case against Toshiba proceeded to trial. In July 2012, the jury found that Toshiba participated in the price-fixing conspiracy. The case was subsequently settled, bringing the total settlements in the litigation to over $470 million. For his outstanding work in the precedent-setting litigation, *California Lawyer* recognized Richard Heimann with a 2013 California Lawyer of the Year award.

***IN RE MUNICIPAL DERIVATIVES LITIGATION,* MDL, NO. 1950 (S.D.N.Y.)**

Lieff Cabraser represented the City of Oakland, the County of Alameda, City of Fresno, and the Fresno County Financing Authority, along with East Bay Delta Housing and Finance Agency, in a class action lawsuit brought on behalf of themselves and other California entities that purchased guaranteed investment contracts, swaps, and other municipal derivatives products from Bank of America, N.A., JP Morgan Chase & Co., Piper Jaffray & Co., Societe Generale SA, UBS AG, and other banks, brokers and financial institutions. The complaint charged that defendants conspired to give cities, counties, school districts, and other governmental agencies artificially low bids for guaranteed investment contracts, swaps, and other municipal derivatives products, which are used by public entities to earn interest on bond proceeds.

The complaint further charged that defendants met secretly to discuss prices, customers, and markets for municipal derivatives sold in the U.S. and elsewhere; intentionally created the false appearance of competition by engaging in sham auctions in which the results were pre-determined or agreed not to bid on contracts; and covertly shared their unjust profits with losing bidders to maintain the conspiracy.

***CALIFORNIA VITAMINS CASES,* JCCP NO. 4076 (CAL. SUPR. CT.)**

Lieff Cabraser served as Co-Liaison Counsel and Co-Chairman of the Plaintiffs' Executive Committee on behalf of a class of California indirect vitamin purchasers in every level of the chain of distribution alleging that certain vitamin manufacturers engaged in price fixing of particular vitamins. In January 2002, the Court granted final approval to a $96 million settlement. In December 2006, the Court granted final approval to over $8.8 million in additional settlements.

***SULLIVAN V. DB INVESTMENTS,* NO. 04-02819 (D. N.J.)**

Lieff Cabraser served as Class Counsel for consumers who purchased diamonds from 1994 through March 31, 2006, in a class action lawsuit against the De Beers group of companies. Plaintiffs charged that De Beers conspired to monopolize the sale of rough diamonds in the U.S. In May 2008, the District Court approved a $295 million settlement for purchasers of diamonds and diamond jewelry, including $130 million to consumers.

The settlement also barred De Beers from continuing its illegal business practices and required De Beers to submit to the jurisdiction of the Court to enforce the settlement. In December 2011, the Third Circuit Court of Appeals affirmed the District Court's order approving the settlement. 667 F.3d 273 (3rd Cir. 2011).

The hard-fought litigation spanned several years and countries. Despite the tremendous resources available to the U.S. Department of Justice and state attorney generals, it was only through the determination of private plaintiffs' counsel that De Beers was finally brought to justice and the rights of consumers were vindicated. Lieff Cabraser attorneys played key roles in negotiating the settlement and defending it on appeal. Discussing the DeBeers case, *The National Law Journal* noted that Lieff Cabraser was "among the plaintiffs' firms that weren't afraid to take on one of the business world's great white whales."

***NATURAL GAS ANTITRUST CASES,* JCCP NOS. 4221, 4224, 4226 & 4228 (CAL. SUPR. CT.)**

In 2003, the Court approved a landmark of $1.1 billion settlement in class action litigation against El Paso Natural Gas Co. for manipulating the market for natural gas pipeline transmission capacity into California. Lieff Cabraser served as Plaintiffs' Co-Lead Counsel and Co-Liaison Counsel in the Natural Gas Antitrust Cases I-IV. In June 2007, the Court granted final approval to a $67.39 million settlement against a group of natural gas suppliers. Plaintiffs charged defendants with manipulating the price of natural gas in California during the California energy crisis of 2000-2001 by a variety of means, including falsely reporting the prices and quantities of natural gas transactions to trade publications, which compiled daily and monthly natural gas price indices; prearranged wash trading; and, in the case of Reliant, "churning" on the Enron Online electronic trading platform, which was facilitated by a secret netting agreement between Reliant and Enron. The 2007 settlement followed a settlement reached in 2006 for $92 million with other energy suppliers.

***METHIONINE CASES I AND II*, JCCP NOS. 4090 & 4096 (CAL. SUPR. CT.)**

Lieff Cabraser served as Co-Lead Counsel on behalf of indirect purchasers of methionine, an amino acid used primarily as a poultry and swine feed additive to enhance growth and production. Plaintiffs alleged that the companies illegally conspired to raise methionine prices to super-competitive levels. The case settled on terms favorable to plaintiffs.

***MARCHBANKS TRUCK SERVICE V. COMDATA NETWORK,* NO. 07-CV-01078 (E.D. PA.)**

In July 2014, the Court approved a $130 million settlement of a class action brought by truck stops and other retail fueling facilities that paid percentage-based transaction fees to Comdata on proprietary card transactions using Comdata's over-the-road fleet card. The complaint challenged arrangements among Comdata, its parent company Ceridian LLC, and three national truck stop chains: defendants TravelCenters of America LLC and its wholly owned subsidiaries, Pilot Travel Centers LLC and its predecessor Pilot Corporation, and Love's Travel Stops & Country Stores, Inc. The alleged anticompetitive conduct insulated Comdata from competition, enhanced its market power, and led to independent truck stops' paying artificially inflated transaction fees.

In addition to the $130 million payment, the settlement required Comdata to change certain business practices to promote competition among payment cards used by over-the-road fleets and truckers and lead to lower merchant fees for the independent truck stops. Lieff Cabraser served as Co-Lead Class Counsel in the litigation.

***MEIJER V. ABBOTT LABORATORIES,* NO. C 07-5985 CW (N.D. CAL.)**

Lieff Cabraser served as co-counsel for the group of retailers charging that Abbott Laboratories monopolized the market for AIDS medicines used in conjunction with Abbott's prescription

drug Norvir. These drugs, known as Protease Inhibitors, have enabled patients with HIV to fight off the disease and live longer. In January 2011, the Court denied Abbott's motion for summary judgment on plaintiffs' monopolization claim. Trial commenced in February 2011. After opening statements and the presentation of four witnesses and evidence to the jury, plaintiffs and Abbott Laboratories entered into a $52 million settlement. The Court granted final approval to the settlement in August 2011.

***WHOLESALE ELECTRICITY ANTITRUST CASES I & II,* JCCP NOS. 4204 & 4205 (CAL. SUPR. CT.)**

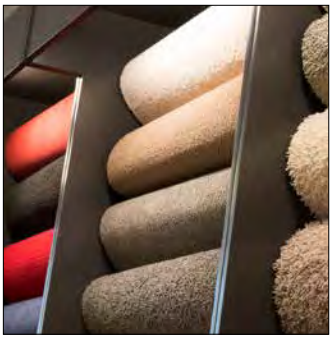
Lieff Cabraser served as Co-Lead Counsel in the private class action litigation against Duke Energy Trading & Marketing, Reliant Energy, and The Williams Companies for claims that the companies manipulated California's wholesale electricity markets during the California energy crisis of 2000-2001. Extending the landmark victories for California residential and business consumers of electricity, in September 2004 plaintiffs reached a $206 million settlement with Duke Energy Trading & Marketing, and in August 2005 plaintiffs reached a $460 million settlement with Reliant Energy, settling claims that the companies manipulated California's wholesale electricity markets during the California energy crisis of 2000-01. Lieff Cabraser earlier entered into a settlement for over $400 million with The Williams Companies.

***IN RE BUSPIRONE ANTITRUST LITIGATION,* MDL NO. 1413 (S.D.N.Y.)**

In November 2003, Lieff Cabraser obtained a $90 million cash settlement for individual consumers, consumer organizations, and third party payers that purchased BuSpar, a drug prescribed to alleviate symptoms of anxiety. Plaintiffs alleged that Bristol-Myers Squibb Co. (BMS), Danbury Pharmacal, Inc., Watson Pharmaceuticals, Inc. and Watson Pharma, Inc. entered into an unlawful agreement in restraint of trade under which BMS paid a potential generic manufacturer of BuSpar to drop its challenge to BMS' patent and refrain from entering the market. Lieff Cabraser served as Plaintiffs' Co-Lead Counsel.

***IN RE ELECTRICAL CARBON PRODUCTS ANTITRUST LITIGATION,* MDL NO. 1514 (D.N.J.)**

Lieff Cabraser represented the City and County of San Francisco and a class of direct purchasers of carbon brushes and carbon collectors on claims that producers fixed the price of carbon brushes and carbon collectors in violation of the Sherman Act. The case settled on terms favorable to plaintiffs.



***IN RE CARPET ANTITRUST LITIGATION,* MDL NO. 1075 (N.D. GA.)**

Lieff Cabraser served as Class Counsel and a member of the trial team for a class of direct purchasers of twenty-ounce level loop polypropylene carpet. Plaintiffs, distributors of polypropylene carpet, alleged that defendants, seven manufacturers of polypropylene carpet, conspired to fix the prices of polypropylene carpet by agreeing to eliminate discounts and charge inflated prices on the carpet. In 2001, the Court approved a $50 million settlement of the case.

***IN RE LASIK/PRK ANTITRUST LITIGATION,* NO. CV 772894 (CAL. SUPR. CT.)**

Lieff Cabraser served as a member of Plaintiffs' Executive Committee in class actions brought on behalf of individuals who underwent Lasik/PRK eye surgery. Plaintiffs alleged that defendants, the manufacturers of the laser system used for the laser vision correction surgery, manipulated fees charged to ophthalmologists and others who performed the surgeries, and that the overcharges were passed onto the patients. In December 2001, the Court approved a $12.5 million settlement of the litigation.

***IN RE LUPRON MARKETING AND SALES PRACTICES LITIGATION,* MDL NO. 1430 (D. MASS.)**

In May 2005, the Court granted final approval to a settlement of a class action lawsuit by patients, insurance companies and health and welfare benefit plans that paid for Lupron, a prescription drug used to treat prostate cancer, endometriosis and precocious puberty. The settlement requires the defendants, Abbott

Laboratories, Takeda Pharmaceutical Company Limited, and TAP Pharmaceuticals, to pay $150 million, inclusive of costs and fees, to persons or entities who paid for Lupron from January 1, 1985 through March 31, 2005. Plaintiffs charged that the defendants conspired to overstate the drug's average wholesale price ("AWP"), which resulted in plaintiffs paying more for Lupron than they should have paid. Lieff Cabraser served as Co-Lead Plaintiffs' Counsel.

***IN THE MATTER OF THE ARBITRATION BETWEEN COPYTELE AND AU OPTRONICS,* CASE NO. 50 117 T 009883 13 (INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION)**

Lieff Cabraser successfully represented CopyTele, Inc. in a commercial dispute involving intellectual property. In 2011, CopyTele entered into an agreement with AU Optronics ("AUO") under which both companies would jointly develop two groups of products incorporating CopyTele's patented display technologies. CopyTele charged that AUO never had any intention of jointly developing the CopyTele technologies, and instead used the agreements to fraudulently obtain and transfer licenses of CopyTele's patented technologies. The case required the review of thousands of pages of documents in Chinese and in English, culminating in a two week arbitration hearing. The parties resolved the matter in December 2014 with CopyTele receiving $9 million.

LABOR-ANTITRUST

Workers whose pay and mobility have been suppressed because of "no-poach" agreements have the right to seek lost income and to put an end to the unlawful restrictions. Lieff Cabraser's Labor Antitrust practice group leads the nation in representing workers asserting antitrust and competition claims against employers. It is the first practice group of its kind, bringing together the expertise of both antitrust and employment lawyers to ensure that workers receive the benefit of free competition for their labor.

Representative Current Cases

ROE V. SURGICAL CARE AFFILIATES, LLC., *ET AL., CASE NO. 1:21-CV-00305-ARW-SRH (N.D. ILL.)*

We have been appointed Co-Lead Counsel for plaintiffs in a consolidated federal class action lawsuit against medical care center giant Surgical Care Affiliates for violations of U.S. antitrust laws. The civil case comes in the wake of a federal indictment regarding SCA's alleged antitrust violations, and alleges that employee compensation and mobility were criminally suppressed at Surgical Care Affiliates via illegal agreements between SCA and its competitors not to compete for each other's senior employees.

LABOR-ANTITRUST

Achievements & Successes

***IN RE: RAILWAY INDUSTRY EMPLOYEE NO-POACH ANTITRUST LITIGATION,* MDL NO. 2850 (W.D. PA.)**

In late 2018, Lieff Cabraser was selected as interim Co-Lead Counsel for plaintiffs in the consolidated "no-poach" employee antitrust litigation against rail equipment companies Knorr-Bremse and Wabtec, the world's dominant rail equipment suppliers. The complaint charged that the companies entered into unlawful agreements with one another not to compete for each other's employees. Plaintiffs alleged that these agreements spanned several years, were monitored and enforced by defendants' senior executives, and achieved their desired goal of suppressing employee compensation and mobility below competitive levels. Plaintiffs' vigorous prosecution of the case led to settlements with both defendants of $48.95 million, which were approved on August 26, 2020.

***SEAMAN V. DUKE UNIVERSITY AND DUKE UNIVERSITY HEALTH SYSTEM,* CASE NO. 1:15-CV-00462-CCE-JLW (M.D. N.C.)**

We won a $54.5 million settlement and the American Antitrust Institute's 2019 award for "Outstanding Antitrust Litigation Achievement in Private Law Practice" representing a class of over 5,000 academic doctors in a federal class action against Duke University and the UNC Health Care System alleging that their agreement not to compete for certain of each other's employees (a "No-Hire" pact) illegally suppressed employee compensation. The settlement included an unprecedented role for the U.S. Department of Justice to monitor and enforce extensive injunctive relief.

***BINOTTI V. DUKE UNIVERSITY,* CASE NO. 1:20-CV-00470 (M.D. N.C.)**

We won a $19 million settlement representing a class of thousands of faculty members in a federal class action against Duke University and UNC alleging that their illegal agreement not to compete for certain of each other's employees (a "No-Hire" pact) suppressed employee compensation and mobility. The litigation followed a prior case Lieff Cabraser successfully resolved with respect to Duke and UNC medical faculty, which led to a certified class of all doctors of the two schools with academic appointments, and a class settlement of $54.5 million.

***IN RE HIGH-TECH EMPLOYEE ANTITRUST LITIGATION,* NO. 11 CV 2509 (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Class Counsel in a consolidated class action charging that Adobe Systems Inc., Apple Inc., Google Inc., Intel Corporation, Intuit Inc., Lucasfilm Ltd., and Pixar violated antitrust laws by conspiring to suppress the pay of technical, creative, and other salaried employees. The complaint alleged that the conspiracy among defendants restricted recruiting of each other's employees. On October 24, 2013, U.S. District Court Judge Lucy H. Koh certified a class of approximately 64,000 persons who worked in defendants' technical, creative, and/or research and development jobs from 2005-2009. On September 2, 2015, the Court approved a $415 million settlement with Apple, Google, Intel, and Adobe. Earlier, on May 15, 2014, the Court approved partial settlements totaling $20 million resolving claims against Intuit, Lucasfilm, and Pixar. *The Daily Journal* described the case as the "most significant antitrust employment case in recent history," adding that it "has been widely recognized as a legal and public policy breakthrough."

CIVIL RIGHTS & SOCIAL JUSTICE

Lieff Cabraser has an entire practice group dedicated to its clients' civil rights in the workplace. In addition, Lieff Cabraser has a long and deep commitment to pro bono and other case work in support of diversity, equity, and social justice.

Representative Current Cases

On an on-going basis, Lieff Cabraser participates in pro bono representation through the Justice & Diversity Center (JDC) of the Bar Association of San Francisco, including in its Eviction Defense Project helping to prevent displacement and homelessness in San Francisco. Every summer, Lieff Cabraser also participates in JDC's Homeless Advocacy Project as part of the firm's summer associate program client work. Lieff Cabraser also takes on numerous special pro bono projects.

Representative Achievements & Successes

***SCHOLL V. MNUCHIN, ET AL.*, NO. 4:20-CV-05309-PJH (N.D. CAL.)**

In March 2020, in response to Covid-19 financial distress, Congress passed the CARES Act to provide economic stimulus payments to most Americans. Trump government agencies thereafter arbitrarily denied relief to America's incarcerated. Lieff Cabraser and co-counsel Equal Justice Society filed suit against the government in an extraordinary and resoundingly successful effort to win back CARES Act benefits for 2 million incarcerated Americans. A veritable army of paralegals fielded thousands upon thousands of inquiries, including via a new website receiving 725,000+ visits in mere months. By 2021, these efforts won $1.465 billion in economic assistance for vulnerable people in American prisons, and contributed powerfully to the body of law permitting IRS policies to be challenged under the APA in federal court. This is the largest financial settlement by far in U.S. history for a purposefully disenfranchised group.

***"HOW TO BE A GOOD ALLY" CONFERENCE*, 2017**

In late 2016, Kelly M. Dermody, then-Chair of the firm's Labor & Employment practice group and San Francisco office Managing Partner, conceived and coordinated the enormously successful SF Bay Area "How to be a Good Ally" project and symposium, attended by 1,300 legal professionals. The symposium, held in San Francisco in January 2017, united scores of California and national non-profit organizations with the legal community in an effort to assist communities in need, including in the areas of hate crimes and Anti-Semitism, government targeting of Muslims, attacks on immigrants and the undocumented, domestic violence and sexual assault, healthcare for people with disabilities and medical vulnerabilities, backlash against the LGBT community, criminalization of communities of color, reproductive rights, worker justice, and saving the environment.

MONK V. SHULKIN (FED. CIRCUIT COURT OF APPEAL)

In the summer of 2016, Lieff Cabraser filed an amicus brief on behalf of Administrative Law Professors and Complex Litigation Law Professors in *Monk v. Shulkin* in the United States Court of Appeals for the Federal Circuit in support of Conley F. Monk, Jr.'s petition to certify a class action over the claims of thousands of veterans whose benefits claims had been delayed or denied. Citing in part that amicus brief, on April 26, 2017, the Court issued a precedential opinion holding, for the first time, that the Veterans Courts have authority to certify classes in the absence of an express Rule 23 or similar device to promote efficiency and fairness.

***HOGUE V. HOGUE,* NO. C083285 (3D CIRCUIT CALIFORNIA COURT OF APPEAL)**

On September 29, 2017, Lieff Cabraser secured a unanimous victory in the California Court of Appeal for a pro bono client who sought a restraining order against her ex-husband. The case, *Hogue v. Hogue*, resolved an issue of first impression in the California courts as to whether California may assert jurisdiction over an out-of-state defendant who makes cyber threats against a California resident. Lieff Cabraser worked on the case with the non-profit organization, Family Violence Appellate Project.

HOLOCAUST CASES

Lieff Cabraser was one of the leading firms that prosecuted claims by Holocaust survivors and the heirs of Holocaust survivors and victims against banks and private manufacturers and other corporations who enslaved and/or looted the assets of Jews and other minority groups persecuted by the Nazi Regime during the Second World War era. The firm served as Settlement Class Counsel in the case against the Swiss banks for which the Court approved a U.S. $1.25 billion settlement in July 2000. Lieff Cabraser donated its attorneys' fees in the Swiss Banks case, in the amount of $1.5 million, to endow a Human Rights clinical chair at Columbia University Law School. The firm was also active in slave labor and property litigation against German and Austrian defendants, and Nazi-era banking litigation against French banks. In connection therewith, Lieff Cabraser participated in multi-national negotiations that led to Executive Agreements establishing an additional approximately U.S. $5 billion in funds for survivors and victims of Nazi persecution.

Commenting on the work of Lieff Cabraser and co-counsel in the litigation against private German corporations, entitled *In re Holocaust Era German Industry, Bank & Insurance Litigation* (MDL No. 1337), U.S. District Court Judge William G. Bassler stated on November 13, 2002:

"Up until this litigation, as far as I can tell, perhaps with some minor exceptions, the claims of slave and forced labor fell on deaf ears. You can say what you want to say about class actions and about attorneys, but the fact of the matter is, there was no attention to this very, very large group of people by Germany, or by German industry until these cases were filed. . . . What has been accomplished here with the efforts of the plaintiffs' attorneys and defense counsel is quite incredible. . . . I want to thank counsel for the assistance in bringing us to where we are today. Cases don't get settled just by litigants. It can only be settled by competent, patient attorneys."

MARRIAGE EQUALITY

Lieff Cabraser took an active role in support of marriage equality in California and nationwide. On March 5, 2015, Lieff Cabraser joined 378 businesses to ask the United States Supreme Court to strike down state law bans on same-sex marriage in connection with the pending case, *Obergefell v. Hodges*. On Friday, June 26, 2015, the U.S. Supreme Court made history in *Obergefell* by ruling that the U.S. Constitution protects the rights of same-sex couples to become legally married everywhere in the country.

Lieff Cabraser previously participated as an amicus party in the similar employer brief filed in the 2013 landmark United States Supreme Court case, *United States v. Windsor* (the challenge to the federal Defense of Marriage Act), and served as amici counsel in connection with the 2013 United States Supreme Court case challenging California's Proposition 8, *Perry v. Hollingsworth*.

Earlier, before the California Supreme Court in *Strauss v. Horton*, 46 Cal. 4th 364 (2008), Lieff Cabraser served as Amici Curiae counsel for forty bar and legal advocacy non-profit organizations throughout California and nationwide. Amici Curiae argued that Proposition 8's denial of equal protection to a class of individuals with respect to a fundamental right violated the California Constitution.

"TIME'S UP" PROJECT

On January 2, 2018, a group of five Lieff Cabraser attorneys joined 300 prominent actresses, female agents, writers, directors, producers, and entertainment executives, as well as many other lawyers nationwide in the new "Time's Up" initiative

in a concerted effort to combat sexual harassment, discrimination, and abuse in the workplace. The initiative began with a new legal defense fund, intended to aid less-privileged women in protecting themselves from sexual misconduct; proposals of legislation to penalize companies that allow persistent harassment and discourage the use of nondisclosure agreements for silencing victims; and an ongoing drive to reach gender parity at studios and talent agencies.

SANCTUARY JURISDICTIONS CASES

On June 28, 2017, Lieff Cabraser and a coalition of 48 cities and counties across the U.S. filed an amicus brief in San Francisco federal court to support the cases filed by the County of Santa Clara and the City and County of San Francisco asking the federal courts to reject the Trump Administration's efforts to dismiss cases seeking to halt the Executive Order threatening the withdrawal of federal funds from so-called "sanctuary jurisdictions," explaining that the Executive Order was unconstitutional and that the public would suffer irreparable harm unless the court left its preliminary injunction in place. The brief followed earlier, similar amicus briefs in the cases from our firm in March of 2017. The cases, *County of Santa Clara v. Trump*, Case No. 5:17-cv-00574, and *City and County of San Francisco v. Trump*, Case No. 3:17-cv-00485, were pending before the United States Judge William H. Orrick. On November 20, 2017, Judge Orrick permanently blocked the Order attempting to cut federal funding from cities that restrict cooperation with U.S. immigration authorities. "President Trump might be able to tweet whatever comes to mind, but he can't grant himself new authority because he feels like it," the judge said in a statement.

***LUSARDI V. MCHUGH,* MDL NO. 1827 (N.D. CAL.)**

On April 1, 2015, Lieff Cabraser secured a precedent-setting victory before the Equal Employment Opportunity Commission in which the Commission held that denial of access to the bathroom of one's gender identity is unlawful sex discrimination in violation of federal Title VII of the Civil Rights Act of 1964. Lieff Cabraser, along with Transgender Law Center, represented Tamara Lusardi, a transgender woman who transitioned while working for a military defense contractor in Alabama, and was thereafter harassed and denied access to the women's bathroom. Since this case, Lieff Cabraser has been an ongoing and frequent collaborator with Transgender Law Center on research and litigation strategy work.

***CRUZ V. U.S., ESTADOS UNIDOS MEXICANOS, WELLS FARGO BANK, ET AL.*, NO. 01-0892-CRB (N.D. CAL.)**

Working with co-counsel, Lieff Cabraser succeeded in correcting an injustice that dated back 60 years. The case was brought on behalf of Mexican workers and laborers, known as Braceros ("strong arms"), who came from Mexico to the United States pursuant to bilateral agreements from 1942 through 1946 to aid American farms and industries hurt by employee shortages during World War II in the agricultural, railroad, and other industries. As part of the Braceros program, employers held back 10% of the workers' wages, which were to be transferred via United States and Mexican banks to savings accounts for each Bracero. The Braceros were never reimbursed for the portion of their wages placed in the forced savings accounts.

Despite significant obstacles including the aging and passing away of many Braceros, statutes of limitation hurdles, and strong defenses to claims under contract and international law, plaintiffs prevailed in a settlement in February 2009. Under the settlement, the Mexican government provided payments to Braceros, or their surviving spouses or children, in the amount of approximately USD$3,500.

CITY OF PHILADELPHIA V. WELLS FARGO

Lieff Cabraser secured a $10 million settlement in 2019 of the city's housing discrimination claims that involved the bank funding city programs for communities affected by lending discrimination and agreeing to other relief as well.

CONSUMER PROTECTION

Lieff Cabraser has been fighting to uphold the rights of consumers for over 50 years. Deceptive and fraudulent practices including false advertising, bait and switch marketing, phony bookkeeping disclosures, unconscionable pricing, and charging for services never provided are just a few of the many unfair and deceptive practices rogue players use to defraud and steal from consumers. These deceptive business practices also distort the marketplace by allowing dishonest businesses to gain unfair advantage over ethical competitors. We are proud of our ongoing successes in prosecuting scores of consumer class action lawsuits against many of the largest U.S. banks, financial service companies, telecommunications companies, and other corporations. Working with co-counsel, we have achieved judgments and settlements in excess of $20 billion for consumers in these cases.

Representative Current Cases

***BIEDERMAN, ET AL. V. FCA US LLC, ET AL.,* CASE NO. 1:23-CV-06640 (N.D. CAL.)**

In December 2023, the United States Department of Justice and California Attorney General announced a record-breaking $1.675 billion fine and consent decree with engine-maker Cummins, Inc. for installing illegal defeat devices in engines equipped in Ram 2500 and 3500 diesel trucks. Historic in many ways, it is just the latest in a long line of diesel-emissions cheating cases, starting with Volkswagen "Clean Diesel," which Lieff Cabraser steered to a series of successful resolutions providing close to $15 billion in consumer compensation.

After the announcement, Lieff Cabraser and co-counsel filed a federal class action complaint against both Cummins and the vehicle maker (FCA) to ensure that the owners and lessees of the affected vehicles—the true victims of the fraud—are also compensated for their economic losses, including for any performance-related degradation stemming from the emissions-related recalls. The litigation is ongoing.

***LEMMO'S PIZZERIA, LLC V. DISCOVER FINANCIAL SERVICES ET. AL.,* CASE NO. 1:23-CV-14250 (N.D. ILL.)**

In 2023, Lieff Cabraser and co-counsel filed a class action lawsuit alleging that Discover engaged in a years-long practice of misclassifying credit card transactions. Plaintiffs in the case allege that for millions of transactions, Discover misclassified the cards used as being Commercial cards when they were really Consumer cards (which are generally subject to lower per-transaction fees than Commercial cards), resulting in merchants throughout the United States paying hundreds of millions of dollars in excessive per transaction charges. The litigation is ongoing.

***RABIN ET AL. V. GOOGLE LLC,* CASE NO. 5:22-CV-04547-PCP (N.D. CAL.)**

Lieff Cabraser, along with co-counsel, represents a proposed nationwide class of early adopters of the Google Workspace service. Plaintiffs in the case allege that Google promised these customers continuing free access to the service, to entice them to sign up so that Google could then benefit from these customers' experiences and use of the service to develop and fine-tune the service, thus putting Google in a position to market the service to other customers for a fee. Plaintiffs allege that Google breached its promise of continuing free service to these customers in 2022, forcing them to either give up or pay for the service. In 2024, the District Court denied Google's motion to dismiss plaintiffs' claims for breach of contract and under California's Unfair Competition Law.

***CAPPS ET AL. V. UNITED SERVICES AUTOMOBILE ASSOCIATION ET AL.,* CASE 5:24-CV-00455-OLG (W.D. TEX.)**

Lieff Cabraser, along with co-counsel, represents a proposed nationwide class of USAA insurance customers. Plaintiffs allege that USAA deliberately created the false impression that these customers were USAA "members" while concealing and obfuscating that they were, in essence "fake members," and did not receive benefits provided only to "real" members (limited to officer class customers), including an annual distribution of company

surplus. Plaintiffs allege claims for deceptive trade practices and for breach of contract.

***NICHOLS V. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,* CASE NO. 2:22-CV-16 (S.D. OHIO)**

This class action lawsuit alleges that State Farm systematically underpaid Ohio automobile insurance customers that had "totaled" vehicles. Plaintiffs allege that, in valuing the customers' total loss vehicles, State Farm applied an improper "typical negotiation adjustment" that was not permitted by law or the insurance contract, one that unjustifiably lowered the amounts that State Farm paid to the customers. The litigation is ongoing.

AUTHORS COPYRIGHT CASE AGAINST OPENAI & MICROSOFT

Lieff Cabraser, with co-counsel, has been appointed Interim Co-Lead Counsel in copyright class action litigation on behalf of authors against OpenAI and Microsoft. The case is pending in the Southern District of New York. Plaintiffs allege that the defendants' wholesale reproduction of copyright-registered work ran afoul of the Copyright Act, constituted direct and contributory infringement, and was willful. Discovery is ongoing.

CONSUMER PROTECTION

Representative Achievements & Successes

***EXPRESS FREIGHT INTERNATIONAL, ET AL. V. HINO MOTORS, LTD., ET AL.,* CASE NO. 1-22-CV-22483-DPG (S.D. FLA.)**

In August of 2022, Lieff Cabraser and co-counsel filed a federal class action complaint against Hino Motors and related entities alleging another instance in the now-pervasive problem across the automotive industry: automaker schemes about vehicle emissions and related performance. As with other well-known instances of emissions fraud—the Volkswagen "Clean Diesel" case; the Fiat Chrysler "EcoDiesel" case; the "Audi CO2" gasoline case; the Mercedes-Benz BlueTEC case; and the data manipulation scandals by Japanese automakers Mitsubishi Motors, Suzuki, Mazda, and Yamaha are just a few examples—the Plaintiffs in *Express Freight v. Hino* allege that the Defendants in the case illegally manipulated emissions and fuel economy test results for Hino-branded trucks in the United States. In 2023, the parties reached a class settlement that provides $237.5 million in cash compensation as well as a robust extended warranty valued at an additional $208 million. The Court granted final approval to the settlement in April 2024.

***KONA COFFEE ADVERTISING FRAUD CLASS ACTION CORKER, ET AL. V. COSTCO WHOLESALE CORP., ET AL.,* NO. 1:19-CV-290 (W.D. WASH.)**

In October 2023, U.S. District Judge Robert S. Lasnik granted final approval to the latest settlement in a lawsuit brought by Hawaiian farmers accusing retailers and suppliers of selling regular coffee under the name "Kona." Defendants have agreed to provide Kona farmers more than $122 million in economic relief, including $41 million in cash payments to the Kona growers and a host of labeling and business practice changes to ensure accurate and reliable labeling of Kona coffee products. In approving the latest settlement, Judge Lasnik described this litigation as one "of the most impressive class action cases I have dealt with in my time on the federal bench, and the results as "great for justice … a real result that makes people whole again."

Lieff Cabraser brought suit on behalf of the farmers in 2019, claiming that only coffee harvested from Hawaii's Big Island is actually Kona coffee, and that those companies—almost two dozen named in the original suit — were selling beans and ground coffee under the name without buying from them, in violation of the Lanham Act. The David vs. Goliath style case pitted three small, longtime Kona coffee farms against 22 major coffee suppliers and retailers, selling a variety of mislabeled coffee products across the country in multiple channels of commerce.

VOLKSWAGEN/PORSCHE EMISSION & FUEL ECONOMY LITIGATION

Lieff Cabraser represented consumers nationwide in a class action against Porsche relating to vehicles that can experience worse fuel economy than promised and advertised. The complaint alleged that Porsche manipulated certain gas-powered vehicles to overstate their advertised fuel economy, and make them seem more ecofriendly than they actually were by securing fraudulent emissions certifications. In June of 2022, Porsche agreed to settle the case for $80 million, paying class members nearly 100% of their damages. In October 2022, the Court granted final approval to the settlement.

***GRIGSON V. FARMERS GROUP, INC.,* CASE NO. 1:17-CV-00088-LY (W.D. TEX.)**

Lieff Cabraser, along with co-counsel, represented a state-wide class of Farmers Texas automobile insurance customers. Plaintiffs alleged that Farmers unfairly discriminated against them and other existing customers by walling them off in a "closed" insurance book and precluding them from accessing Farmers' "open" insurance book that had lower rates for materially the same coverages, was supposed to be available to existing customers, but that Farmers only made available to new customers. In 2020, the Court approved a $52 million class settlement that provided direct monetary payments to the class members.

***CYMBALISTA ET AL. V. JPMORGAN CHASE BANK, N.A.,* CASE 2:20-CV-00456-RPK-LB (E.D.N.Y.)**

Lieff Cabraser, along with co-counsel, represented a class of Chase mortgage customers. Plaintiffs alleged that Chase failed to pay interest on the funds held in the customers' mortgage escrow accounts, in violation of certain state laws. In 2022, the Court approved a an $11.5 million class settlement, which provided direct monetary relief to class members.

***LUSNAK V. BANK OF AMERICA, N.A.,* CASE NO. CV 14-1855-GW-GJSX (N.D. CAL.)**

Lieff Cabraser, along with co-counsel, represented a state-wide class of Bank of America mortgage customers. Plaintiffs alleged that Bank of America failed to pay interest on the funds held in the customers' mortgage escrow accounts, as required by California law. After overcoming on appeal Bank of America's argument that the claims were preempted by the National Bank Act, the parties reached a $35 million class settlement (approximately 80% of the alleged damages). The settlement was approved in 2020. In addition, following Plaintiff's successful appeal in this case on the preemption issue, Bank of America changed its policies and practices—beginning in 2019, Bank of America began paying escrow interest for all residential mortgage escrow accounts in California.

***PATTI'S PITAS LLC ET AL. V. WELLS FARGO MERCHANT SERVICES, LLC,* CASE NO. 1:17-CV-04583 (AKT) (E.D.N.Y.)**

Lieff Cabraser, along with co-counsel, represented a nationwide class of merchants in a class action alleging that WFMS induced the merchants to enter into contracts by failing to properly disclose the true payment processing rates and charges that would apply, and then breached their contracts by increasing rates and fees and by imposing certain fees and charges that were improper and/or not adequately disclosed. In 2021, the Court approved a class settlement that provided monetary payments to class members and included important practice changes.

***VIANU ET. AL. V. AT&T MOBILITY LLC,* CASE NO. 3:19-CV-03602-LB (N.D. CAL.)**

Lieff Cabraser, along with co-counsel, represented a class of California AT&T wireless customers, challenging AT&T's charging of monthly Administrative Fees. Plaintiffs alleged that AT&T's representations and advertisements regarding the monthly price of its wireless service plans were misleading because the prices did not include the Administrative Fee, and that AT&T implemented and charged the fee in a deceptive and unfair manner. In 2022, the Court approved a $14 million settlement that provided monetary payments to the class.

ZF-TRW AIRBAG SAFETY DEFECT LAWSUITS

In 2019, Lieff Cabraser and co-counsel filed a federal class action lawsuit in California on behalf of consumers across the U.S. against Hyundai Motor America, Kia Motor America, and ZF-TRW Automotive Holding Corp. over defective vehicle airbags that fail to operate during crashes due to electrical overstress. As detailed in the Complaint, a defect in the application specific integrated circuit built into the airbags causes a failure in the Airbag Control Unit that prevents the airbags and the seat belt pre-tensioners, both vital to maximizing safety in a vehicle crash, from deploying. As the Complaint further alleges, ZF-TRW, Hyundai, and Kia became aware of the ACU defect as early as 2011, but did nothing to protect consumers or warn of the product dangers until 2018. Further, reports indicate there are no warning signs of the problem, so owners and lessees have no way of knowing the airbag and belt failures will happen.

***CLEARY ET AL. V. AMERICAN AIRLINES, INC.,* CASE NO. 4:21-CV-00184-O (N.D. TEX.)**

Lieff Cabraser and co-counsel represented American Airlines customers that plaintiffs alleged were improperly charged checked bag fees contrary to email confirmations they received from American and contrary to the terms in American partner credit card agreements. In 2023, the Court approved a class settlement valued at over $7.5 million.

***MARCUS A. ROBERTS ET AL. V. AT&T MOBILITY LLC.,* NO. 3:15-CV-3418 (N.D. CAL.)**

Lieff Cabraser represented California consumers in a class action lawsuit against AT&T claiming that AT&T falsely advertised that its "unlimited" mobile phone plans provide "unlimited" data, while purposefully failing to disclose that it regularly "throttles" (i.e., intentionally slows) customers' data speed once they reach certain data usage thresholds. After overcoming AT&T's attempts to force the consumers into non-class arbitration, Plaintiffs achieved a $12 million class settlement, approved in 2021, which provided direct monetary relief to class members.

TELEPHONE CONSUMER PROTECTION ACT LITIGATION

Lieff Cabraser serves as a leader in nationwide Telephone Consumer Protection Act ("TCPA") class actions challenging abusive and harassing automated calls. Based on Lieff Cabraser's experience and expertise in these cases, courts have appointed Lieff Cabraser as co-lead counsel in certified TCPA class actions against DIRECTV. *Brown v. DirecTV, LLC*, No. CV 13-1170 DMG (EX), 2019 WL 1434669 (C.D. Cal. Mar. 29, 2019); *Cordoba v. DirecTV, LLC*, 320 F.R.D. 582 (N.D. Ga. 2017). Lieff Cabraser also maintains leadership roles in ongoing nationwide class actions against several other companies that make automated debt-collection or telemarketing calls, including National Grid (*Jenkins v. National Grid USA, et al.*, Case No. 2:15-cv-01219-JS-GRB (E.D.N.Y.).

***JAMES V. UMG RECORDINGS, INC.,* NO. CV-11-1613 (N.D. CAL); *ZOMBIE V. UMG RECORDINGS, INC.,* NO. CV-11-2431 (N.D. CAL)**

Lieff Cabraser and its co-counsel represented music recording artists in a class action against Universal Music Group. Plaintiffs alleged that Universal failed to pay the recording artists full royalty income earned from customers' purchases of digitally downloaded music from vendors such as Apple iTunes. Plaintiffs alleged that Universal licensed plaintiffs' music to digital download providers, but in its accounting of the royalties plaintiffs earned, treated such licenses as "records sold" because royalty rates for "records sold" were lower than the royalty

rates for licenses. In 2015, the Court approved a $11.5 million class settlement.

***WHITE V. EXPERIAN INFORMATION SOLUTIONS,* NO. 05-CV-1070 DOC (C.D. CAL.)**

In 2005, plaintiffs filed nationwide class action lawsuits against the nation's three largest repositories of consumer credit information, Experian Information Solutions, Inc., Trans Union, LLC, and Equifax Information Services, LLC. The complaints charged that defendants violated the Fair Credit Reporting Act ("FCRA") by recklessly failing to follow reasonable procedures to ensure the accurate reporting of debts discharged in bankruptcy and by refusing to adequately investigate consumer disputes regarding the status of discharged accounts.

In 2008, the District Court approved a partial settlement of the action that established an historic injunction. The injunctive relief settlement required defendants to comply with detailed procedures for the retroactive correction and updating of consumers' credit file information concerning discharged debt (affecting one million consumers who had filed for bankruptcy dating back to 2003), as well as new procedures to ensure that debts subject to future discharge orders will be similarly treated. As noted by the District Court, "Prior to the injunctive relief order entered in the instant case, however, no verdict or reported decision had ever required Defendants to implement procedures to cross-check data between their furnishers and their public record providers."

In 2018, the District Court approved a further class settlement that provided $38.7 million in non-reversionary cash benefits plus additional important benefits for class members.

***IN RE ARIZONA THERANOS, INC. LITIGATION,* NO. 2:16-CV-2138-HRH (D. ARIZ.)**

This class action lawsuit alleged that Walgreens and startup company Theranos Inc. (along with its two top executives) committed fraud and battery by prematurely marketing to consumers blood testing services that were still in-development, not ready-for-market, and dangerously unreliable. Hundreds of thousands of consumers in Arizona and California submitted to these "testing" services and blood draws under false pretenses. Consumers also made major health decisions (including taking actions and medication, and refraining from taking actions and medications) in reliance on these unreliable tests. In 2024, the Court approved class settlements totaling $45.33 million that will provide direct monetary relief to the class members.

***MOORE V. VERIZON COMMUNICATIONS,* NO. 09-CV-01823-SBA (N.D. CAL.); *NWABUEZE V. AT&T,* NO. 09-CV-1529 SI (N.D. CAL.); *TERRY V. PACIFIC BELL TELEPHONE CO.,* NO. RG 09 488326 (ALAMEDA COUNTY SUP. CT.)**

Lieff Cabraser, with co-counsel, represented nationwide classes of landline telephone customers subjected to the deceptive business practice known as "cramming." In this practice, a telephone company bills customers for unauthorized third-party charges assessed by billing aggregators on behalf of third-party providers. Settlements in the cases were approved in 2013 and 2014, which allowed customers to receive 100% refunds for all unauthorized charges from 2005 to the present, and provided important injunctive relief to prevent cramming in the future.

***THE PEOPLE OF THE STATE OF CALIFORNIA V. J.C. PENNEY CORPORATION, INC.,* CASE NO. BC643036 (LOS ANGELES COUNTY SUP. CT); *THE PEOPLE OF THE STATE OF CALIFORNIA V. KOHL'S DEPARTMENT STORES, INC.,* CASE NO. BC643037 (LOS ANGELES COUNTY SUP. CT); *THE PEOPLE OF THE STATE OF CALIFORNIA V. MACY'S, INC.,* CASE NO. BC643040 (LOS ANGELES COUNTY SUP. CT); *THE PEOPLE OF THE STATE OF CALIFORNIA V. SEARS, ROEBUCK AND CO., ET AL.,* CASE NO. BC643039 (LOS ANGELES COUNTY SUP. CT)**

Working with the office of the Los Angeles City Attorney, Lieff Cabraser and co-counsel represented the People

of California in consumer fraud and false advertising civil enforcement actions against national retailers J.C. Penney, Kohl's, Macy's, and Sears alleging that each of these companies used "false reference pricing" schemes —whereby the companies were alleged to advertise products at a purported "discount" from false "original" or "regular" prices—to mislead customers into believing they were receiving bargains. The cases are now fully resolved.

***FIAT CHRYSLER DODGE JEEP ECODIESEL LITIGATION,* 17-MD-02777-EMC**

Lieff Cabraser represented owners and lessors of affected Fiat Chrysler vehicles in litigation accusing Fiat Chrysler of using secret software to allow excess emissions in violation of the law for at least 104,000 2014-2016 model year diesel vehicles, including Jeep Grand Cherokees and Dodge Ram 1500 trucks with 3-liter diesel engines sold in the United States from late 2013 through 2016 (model years 2014, 2015, and 2016). In June 2017, Judge Edward M. Chen of the Northern District of California named Elizabeth Cabraser sole Lead Counsel for Plaintiffs and Chair of the Plaintiffs' Steering Committee for consolidated litigation of the case.

In May 2019, Judge Chen granted final approval to a $307.5 million settlement of the case, which provided eligible owners and lessees with substantial cash payments and an extended warranty following the completion of a government-mandated emissions modification to affected vehicles.

***CODY V. SOULCYCLE, INC.,* CASE NO. 2:15-CV-06457 (C.D. CAL.)**

Lieff Cabraser represented consumers in a class action lawsuit alleging that indoor cycling fitness company SoulCycle sold illegally expiring gift certificates. The suit alleged that SoulCycle defrauded customers by forcing them to buy gift certificates with short enrollment windows and keeping the expired certificates' unused balances, in violation of the U.S. Electronic Funds Transfer Act and California's Unfair Competition Law, and sought reinstatement of expired classes or customer reimbursements as well as policy changes. In October of 2017, U.S. District Judge Michael W. Fitzgerald granted final approval to a settlement of the litigation valued between $6.9 million and $9.2 million that provided significant economic consideration to settlement class members as well as meaningful changes to SoulCycle's business practices.

***AMIN, ET AL. V. MERCEDES-BENZ USA, LLC,* NO. 1:17-CV-01701-AT (N.D. GA.)**

Lieff Cabraser successfully represented a class of Mercedes-Benz vehicle owners and lessees whose defective HVAC systems developed moldy odors. In 2020, Judge Amy Totenberg granted final approval to a settlement offering financial compensation and extended warranties. Judge Totenberg estimated the financial benefits of the settlement for the class at between $35.93 and $103.66 million.

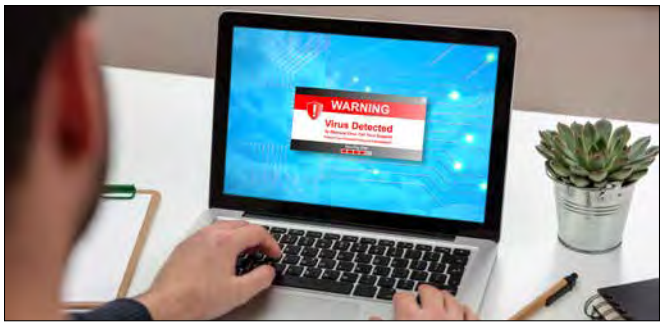
***HALE, ET AL. V. STATE FARM MUT. AUTO. INS. CO., ET AL.,* CASE NO. 3:12-CV-00660-DRH-SCW**

In 1997, Lieff Cabraser and co-counsel filed a class action in Illinois state court, accusing State Farm of approving the use of lower-quality non-original equipment manufacturer (non-OEM) automotive parts for repairs to the vehicles of more than 4 million State Farm policyholders, contrary to the company's policy language. Plaintiffs won a verdict of more than nearly $1.2 billion that included $600 million in punitive damages. The state appeals court affirmed the judgment, but reduced it slightly to $1.05 billion. State Farm appealed to the Illinois Supreme Court in May 2013.

A two-plus-year delay in that Court's decision led to a vacancy in the Illinois Supreme Court. Plaintiffs alleged that State Farm recruited a little-known trial judge, Judge Lloyd A. Karmeier, to run for the vacant Supreme Court seat, and then managed his campaign behind the scenes, and secretly funded it to the tune of almost $4 million. Then, after Justice Karmeier was elected, State Farm hid its involvement in his campaign to ensure that Justice Karmeier could participate in the pending

appeal of the $1.05 billion judgment. State Farm's scheme was successful: Justice Karmeier joined the otherwise "deadlocked" deliberations and voted to decertify the class and overturn the judgment.

In a 2012 lawsuit filed in federal court, Plaintiffs alleged that this secretive scheme to seat a sympathetic justice—and then to lie about it, so as secure that justice's participation in the pending appeal—violated the Racketeer Influenced and Corrupt Organization Act ("RICO"), and deprived Plaintiffs of their interest in the billion-dollar judgment. Judge David R. Herndon certified the class in October 2016, and the Seventh Circuit denied State Farm's petition to appeal the ruling in December 2016 and again in May 2017. On August 21, 2018, Judge David R. Herndon issued two new Orders favorable to plaintiffs relating to evidence and testimony to be included in the trial. On September 4, 2018, the day the trial was to begin, Judge Herndon gave preliminary approval to a $250 million settlement of the case, and on December 13, 2018, Judge Herndon gave the settlement final approval.



***WILLIAMSON V. MCAFEE, INC.,* NO. 14-CV-00158-EJD (N.D. CAL.)**

This nationwide class action alleged that McAfee falsely represented the prices of its computer anti-virus software to customers enrolled in its "autorenewal" program. Plaintiffs alleged that McAfee: (a) offered non-auto-renewal subscriptions at stated "discounts" from a "regular" sales price; however, the stated discounts were false because McAfee never sold subscriptions at the stated "regular" price to non-auto-renewal customers; and (b) charged the auto-renewal customers the amount of the false "regular" sales price, claiming it to be the "current" regular price even though it did not sell subscriptions at that price to any other customer. Plaintiffs alleged that McAfee's false reference price scheme violated California's and New York's unfair competition and false advertising laws. In 2017, a class settlement was approved that included monetary payments to claimants and practice changes.

***DOVER V. BRITISH AIRWAYS,* CASE NO. 1:12-CV-05567 (E.D.N.Y.)**

Lieff Cabraser represented participants in British Airways' ("BA") frequent flyer program, known as the Executive Club, in a breach of contract class action lawsuit. BA imposes a very high "fuel surcharge," often in excess of $500, on Executive Club reward tickets. Plaintiffs alleged that the "fuel surcharge" was not based upon the price of fuel, and that it therefore violated the terms of the contract. The case was heavily litigated for five years, and settled on the verge of trial for a $42.5 million common fund. Class members had the choice of a cash refund or additional flyer miles based on the number of tickets redeemed during the class period, with a total settlement value of up to $63 million.

U.S. Magistrate Judge Cheryl Pollak signed off on the settlement on May 30, 2018: "In light of the court's experience throughout the course of this litigation — and particularly in light of the contentiousness of earlier proceedings, the inability of the parties to settle during previous mediation attempts and the parties' initial positions when they appeared for the settlement conferences with the court — the significant benefit that the settlement will provide to class members is remarkable."

***HANSELL V. TRACFONE WIRELESS,* NO. 13-CV-3440-EMC (N.D. CAL.); *BLAQMOOR V. TRACFONE WIRELESS,* NO. 13-CV-05295-EMC (N.D. CAL.); *GANDHI V. TRACFONE WIRELESS,* NO. 13-CV-05296-EMC (N.D. CAL.)**

At the time one of the nation's largest wireless carriers, TracFone used the brands Straight Talk, Net10, Telcel America, and Simple Mobile to sell mobile phones with prepaid wireless plans at Walmart and other retail stores nationwide. This class action lawsuit alleged that TracFone falsely advertised its wireless mobile phone plans as providing "unlimited data," while actually maintaining monthly data usage limits that were not disclosed to customers. It further alleged that TracFone regularly throttled (i.e., significantly reduced the speed of) or

terminated customers' data plans pursuant to the secret limits.

Further, TracFone and its brands could no longer state in their advertisements and marketing materials that any plan provided "unlimited data" unless there was also a clear, prominent, and adjoining disclosure of any applicable throttling caps or limits. Notably, following two years of litigation by class counsel, the Federal Trade Commission joined the cased and filed a Consent Order with TracFone in the same federal court where the class action litigation was pending. All compensation to consumers was provided through the class action settlement.

***GUTIERREZ V. WELLS FARGO BANK,* NO. C 07-05923 WHA (N.D. CAL.)**

Following a two week bench class action trial, U.S. District Court Judge William Alsup in August 2010 issued a 90-page opinion holding that Wells Fargo violated California law by improperly and illegally assessing overdraft fees on its California customers and ordered $203 million in restitution to the certified class. Instead of posting each transaction chronologically, the evidence presented at trial showed that Wells Fargo deducted the largest charges first, drawing down available balances more rapidly and triggering a higher volume of overdraft fees.

Wells Fargo appealed. In December 2012, the Appellate Court issued an opinion upholding and reversing portions of Judge Alsup's order, and remanded the case to the District Court for further proceedings. In May 2013, Judge Alsup reinstated the $203 million judgment against Wells Fargo and imposed post-judgment interest bringing the total award to nearly $250 million. On October 29, 2014, the Appellate Court affirmed the Judge Alsup's order reinstating the judgment.

For his outstanding work as Lead Trial Counsel and the significance of the case, California Lawyer magazine recognized Richard M. Heimann with a California Lawyer Attorney of the Year (CLAY) Award. In addition, the Consumer Attorneys of California selected Mr. Heimann and Michael W. Sobol as Finalists for the Consumer Attorney of the Year Award for their success in the case.

In reviewing counsel's request for attorneys' fees, Judge Alsup stated on May 21, 2015:

"Lieff Cabraser, on the other hand, entered as class counsel and pulled victory from the jaws of defeat. They bravely confronted several obstacles including the possibility of claim preclusion based on a class release entered in state court (by other counsel), federal preemption, hard-fought dispositive motions, and voluminous discovery. They rescued the case [counsel that originally filed] had botched and secured a full recovery of $203 million in restitution plus injunctive relief. Notably, Attorney Richard Heimann's trial performance ranks as one of the best this judge has seen in sixteen years on the bench. Lieff Cabraser then twice defended the class on appeal. At oral argument on the present motion, in addition to the cash restitution, Wells Fargo acknowledged that since 2010, its posting practices changed nationwide, in part, because of the injunction. Accordingly, this order allows a multiplier of 5.5 mainly on account of the fine results achieved on behalf of the class, the risk of non-payment they accepted, the superior quality of their efforts, and the delay in payment."

***IN RE NEURONTIN MARKETING AND SALES PRACTICES LITIGATION,* MDL NO. 1629 (D. MASS.)**

Lieff Cabraser served on the Plaintiffs' Steering Committee in multidistrict litigation arising out of the sale and marketing of the prescription drug Neurontin, manufactured by Parke-Davis, a division of Warner-Lambert Company, which was later acquired by Pfizer, Inc. Lieff Cabraser served as co-counsel to Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals ("Kaiser") in Kaiser's trial against Pfizer in the litigation.

On March 25, 2010, a federal court jury determined that Pfizer violated a federal antiracketeering law by promoting its drug Neurontin for unapproved uses and found Pfizer must pay Kaiser damages of up to $142 million. At trial, Kaiser presented evidence that Pfizer knowingly marketed Neurontin for unapproved uses without proof that it was effective. Kaiser said it was misled into believing

neuropathic pain, migraines, and bipolar disorder were among the conditions that could be treated effectively with Neurontin, which was approved by the FDA as an adjunctive therapy to treat epilepsy and later for post-herpetic neuralgia, a specific type of neuropathic pain.

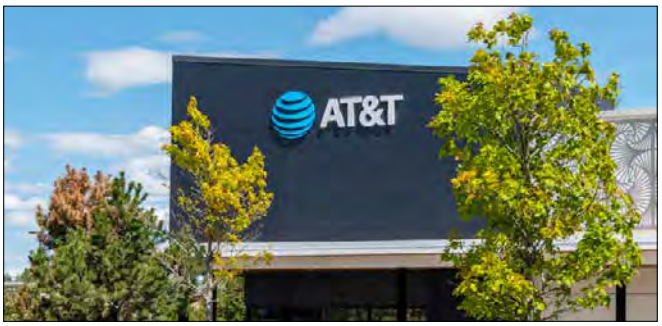
In November 2010, the Court issued Findings of Fact and Conclusions of Law on Kaiser's claims arising under the California Unfair Competition Law, finding Pfizer liable and ordering that it pay restitution to Kaiser of approximately $95 million. In April 2013, the First Circuit Court of Appeals affirmed both the jury's and the District Court's verdicts. In November 2014, the Court approved a $325 million settlement on behalf of a nationwide class of third party payors.

***IN RE CHECKING ACCOUNT OVERDRAFT LITIGATION,* MDL NO. 2036 (S.D. FL.)**

Lieff Cabraser served on the Plaintiffs' Executive Committee ("PEC") in Multi-District Litigation against 35 banks, including Bank of America, Chase, Citizens, PNC, Union Bank, and U.S. Bank. The complaints alleged that the banks entered debit card transactions from the "largest to the smallest" to draw down available balances more rapidly and maximize overdraft fees. In March 2010, the Court denied defendants' motions to dismiss the complaints. The Court has approved nearly $1 billion in settlements with the banks.

In November 2011, the Court granted final approval to a $410 million settlement of the case against Bank of America. Lieff Cabraser was the lead plaintiffs' law firm on the PEC that prosecuted the case against Bank of America. In approving the settlement with Bank of America, U.S. District Court Judge James Lawrence King stated, "This is a marvelous result for the members of the class." Judge King added, "[B]ut for the high level of dedication, ability and massive and incredible hard work by the Class attorneys . . . I do not believe the Class would have ever seen . . . a penny."

In September 2012, the Court granted final approval to a $35 million settlement of the case against Union Bank. In approving the settlement, Judge King again complimented plaintiffs' counsel for their outstanding work and effort in resolving the case: "The description of plaintiffs' counsel, which is a necessary part of the settlement, is, if anything, understated. In my observation of the diligence and professional activity, it's superb. I know of no other class action case anywhere in the country in the last couple of decades that's been handled as efficiently as this one has, which is a tribute to the lawyers."



***IN RE APPLE AND AT&T IPAD UNLIMITED DATA PLAN LITIGATION,* NO. 5:10-CV-02553 RMW (N.D. CAL.)**

Lieff Cabraser served as class counsel in an action against Apple and AT&T charging that Apple and AT&T misrepresented that consumers purchasing an iPad with 3G capability could choose an unlimited data plan for a fixed monthly rate and switch in and out of the unlimited plan on a monthly basis as they wished. Less than six weeks after its introduction to the U.S. market, AT&T and Apple discontinued their unlimited data plan for any iPad 3G customers not currently enrolled and prohibited current unlimited data plan customers from switching back and forth from a less expensive, limited data plan. In March 2014, Apple agreed to compensate all class members $40 and approximately 60,000 claims were paid. In addition, sub-class members who had not yet entered into an agreement with AT&T were offered a data plan.

TELEPHONE CONSUMER PROTECTION ACT LITIGATION

Lieff Cabraser serves as a leader in nationwide Telephone Consumer Protection Act ("TCPA") class actions challenging unwanted telephone calls. Based on Lieff Cabraser's experience and expertise in these cases, courts have appointed Lieff Cabraser as co-lead counsel in certified TCPA class actions that have recovered over $440 million. Lieff Cabraser also currently maintains leadership roles in ongoing nationwide class actions against several other companies that make telemarketing calls without consent, including Campbell v. Sirius XM Radio, Inc., Case No. 2:22-cv-02261 (C.D. Ill.) and Newman v. Direct Energy, LP, Case No. 4:23-cv-01388 (S.D. Tex.).

***HEALY V. CHESAPEAKE APPALACHIA,* NO. 1:10CV00023 (W.D. VA.); *HALE V. CNX GAS,* NO. 1:10CV00059 (W.D. VA.); *ESTATE OF HOLMAN V. NOBLE ENERGY,* NO. 03 CV 9 (DIST. CT., CO.); *DROEGEMUELLER V. PETROLEUM DEVELOPMENT CORPORATION,* NO. 07 CV 2508 JLK (D. CO.); *ANDERSON V. MERIT ENERGY CO.,* NO. 07 CV 00916 LTB (D. CO.); *HOLMAN V. PETRO-CANADA RESOURCES, (USA),* NO. 07 CV 416 (DIST. CT., CO.)**

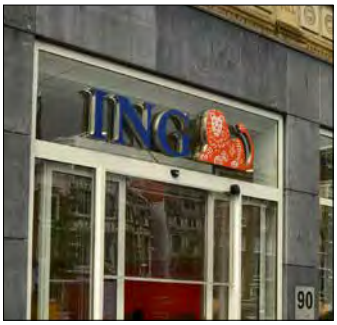
Lieff Cabraser served as Co-Lead Counsel in multiple cases in federal court in Virginia, in which plaintiffs alleged that certain natural gas companies improperly underpaid gas royalties to the owners of the gas. In one of the settled cases, plaintiffs recovered approximately 95% of the damages they suffered. Lieff Cabraser also achieved settlements on behalf of natural gas royalty owners in five other class actions outside Virginia. Those settlements—in which class members recovered between 70% and 100% of their damages, excluding interest—were valued at more than $160 million.

***WALSH V. KINDRED HEALTHCARE INC.,* NO. 3:11-CV-00050 (N.D. CAL.)**

Lieff Cabraser and co-counsel represented a class of 54,000 current and former residents, and families of residents, of skilled nursing care facilities in a class action against Kindred Healthcare for failing to adequately staff its nursing facilities in California. Since January 1, 2000, skilled nursing facilities in California have been required to provide at least 3.2 hours of direct nursing hours per patient day (NHPPD), which represented the minimum staffing required for patients at skilled nursing facilities.

The complaint alleged a pervasive and intentional failure by Kindred Healthcare to comply with California's required minimum standard for qualified nurse staffing at its facilities. Understaffing is uniformly viewed as one of the primary causes of the inadequate care and often unsafe conditions in skilled nursing facilities. Studies have repeatedly shown a direct correlation between inadequate skilled nursing care and serious health problems, including a greater likelihood of falls, pressure sores, significant weight loss, incontinence, and premature death. The complaint further charged that Kindred Healthcare collected millions of dollars in payments from residents and their family members, under the false pretense that it was in compliance with California staffing laws and would continue to do so.

In December 2013, the Court approved a $8.25 million settlement which included cash payments to class members and an injunction requiring Kindred Healthcare to consistently utilize staffing practices which would ensure they complied with applicable California law. The injunction, subject to a third party monitor, was valued at between $6 million and $20 million.



***ING BANK RATE RENEW CASES,* CASE NO. 11-154-LPS (D. DEL.)**

Lieff Cabraser represented borrowers in class action lawsuits charging that ING Direct breached its promise to allow them to refinance their mortgages for a flat fee. From October 2005 through April 2009, ING promoted a $500 or $750 flat-rate refinancing fee called "Rate Renew" as a benefit of choosing ING for mortgages over competitors. Beginning in May 2009, however, ING began charging a higher fee of a full monthly mortgage payment for refinancing using "Rate Renew," despite ING's earlier and lower advertised price. As a result, the complaint alleged that many borrowers paid more to refinance their loans using "Rate Renew" than they should have, or were denied the opportunity to refinance their loan even though the borrowers met the terms and conditions of ING's original "Rate Renew" offer.

In August 2012, the Court certified a class of consumers in ten states who purchased or retained an ING mortgage from October 2005 through April 2009. A second case on behalf of California consumers was filed in December 2012. In October 2014, the Court approved a $20.35 million nationwide settlement of the litigation. The settlement provided an average payment of $175 to the nearly 100,000 class members, transmitted to their accounts automatically and without any need to file a claim form.

***IN RE CHASE BANK USA, N.A. "CHECK LOAN" CONTRACT LITIGATION,* MDL NO. 2032 (N.D. CAL.)**

Lieff Cabraser served as Plaintiffs' Liaison Counsel and on the Plaintiffs' Executive Committee in Multi-District Litigation ("MDL") charging that Chase Bank violated the implied covenant of good faith and fair dealing by unilaterally modifying the terms of fixed rate loans. The MDL was established in 2009 to coordinate more than two dozen cases that were filed in the wake of the conduct at issue. The nationwide, certified class consisted of more than 1 million Chase cardholders who, in 2008 and 2009, had their monthly minimum payment requirements unilaterally increased by Chase by more than 150%. Plaintiffs alleged that Chase made this change, in part, to induce cardholders to give up their promised fixed APRs in order to avoid the unprecedented minimum payment hike. In November 2012, the Court approved a $100 million settlement of the case.

***IN RE LAWN MOWER ENGINE HORSEPOWER MARKETING AND SALES PRACTICES LITIGATION,* MDL NO. 1999 (E.D. WIS.)**

Lieff Cabraser served as co-counsel for consumers who alleged manufacturers of certain gasoline-powered lawn mowers misrepresented, and significantly overstated, the horsepower of the product. As the price for lawn mowers is linked to the horsepower of the engine -- the higher the horsepower, the more expensive the lawn mower — defendants' alleged misconduct caused consumers to purchase expensive lawn mowers that provided lower horsepower than advertised. In August 2010, the Court approved a $65 million settlement of the action.

***VYTORIN/ZETIA MARKETING, SALES PRACTICES & PRODUCTS LIABILITY LITIGATION,* MDL NO. 1938 (D. N.J.)**

Lieff Cabraser served on the Executive Committee of the Plaintiffs' Steering Committee representing plaintiffs alleging that Merck/Schering-Plough Pharmaceuticals falsely marketed anti-cholesterol drugs Vytorin and Zetia as being more effective than other anti-cholesterol drugs. Plaintiffs further alleged that Merck/Schering-Plough Pharmaceuticals sold Vytorin and Zetia at higher prices than other anti-cholesterol medication when they were no more effective than other drugs. In 2010, the Court approved a $41.5 million settlement for consumers who bought Vytorin or Zetia between November 2002 and February 2010.

***BRAZIL V. DELL,* NO. C-07-01700 RMW (N.D. CAL.)**

Lieff Cabraser served as Class Counsel representing a certified class of online consumers in California who purchased certain Dell computers based on the advertisement of an instant-off (or "slash-through") discount. The complaint challenged Dell's pervasive use of "slash-through" reference prices in its online marketing. Plaintiffs alleged that these "slash-through" reference prices were interpreted by consumers as representing Dell's former or regular sales prices, and that such reference prices (and corresponding representations of "savings") were false because Dell rarely, if ever, sold its products at such prices. In October 2011, the Court approved a settlement that provided a $50 payment to each class member who submitted a timely and valid claim. In addition, in response to the lawsuit, Dell changed its methodology for consumer online advertising, eliminating the use of "slash-through" references prices.

PAYMENT PROTECTION CREDIT CARD LITIGATION

Lieff Cabraser represented consumers in litigation in federal court against some of the nation's largest credit card issuers, challenging the imposition of charges for so-called "payment protection" or "credit protection" programs. The complaints charged that the credit card companies imposed payment protection without the consent of the consumer and/or deceptively marketed the service, and further that the credit card companies unfairly administered their payment protection programs to the detriment of consumers. In 2012 and 2013, the Courts approved monetary settlements with HSBC ($23.5 million), Bank of America ($20 million), and Discover ($10 million) that also required changes in the marketing and sale of payment protection to consumers.

***YARRINGTON V. SOLVAY PHARMACEUTICALS,* NO. 09-CV-2261 (D. MINN.)**

In March 2010, the Court granted final approval to a $16.5 million settlement with Solvay Pharmaceuticals, one of the country's leading pharmaceutical companies. Lieff Cabraser served as Co-Lead Counsel, representing a class of persons who purchased Estratest—a hormone replacement drug. The class action lawsuit alleged that Solvay deceptively marketed and advertised Estratest as an FDA-approved drug when in fact Estratest was not FDA-approved for any use. Under the settlement, consumers obtained partial refunds for up to 30% of the purchase price paid of Estratest. In addition, $8.9 million of the settlement was allocated to fund programs and activities devoted to promoting women's health and well-being at health organizations, medical schools, and charities throughout the nation.

***IN RE JOHN MUIR UNINSURED HEALTHCARE CASES,* JCCP NO. 4494 (CAL. SUPR. CT.)**

Lieff Cabraser represented nearly 53,000 uninsured patients who received care at John Muir hospitals and outpatient centers and were charged inflated prices and then subject to overly aggressive collection practices when they failed to pay.

In November 2008, the Court approved a final settlement of the John Muir litigation. John Muir agreed to provide refunds or bill adjustments of 40-50% to uninsured patients who received medical care at John Muir over a six year period, bringing their charges to the level of patients with private insurance, at a value of $115 million. No claims were required. Every class member received a refund or bill adjustment. Furthermore, John Muir was required to (1) maintain charity care policies to give substantial discounts—up to 100%—to low income, uninsured patients who meet certain income requirements; (2) maintain an Uninsured Patient Discount Policy to give discounts to all uninsured patients, regardless of income, so that they pay rates no greater than those paid by patients with private insurance; (3) enhance communications to uninsured patients so they are better advised about John Muir's pricing discounts, financial assistance, and financial counseling services; and (4) limit the practices for collecting payments from uninsured patients.

***IN RE AMERIQUEST MORTGAGE CO. MORTGAGE LENDING PRACTICES LITIGATION,* MDL NO. 1715**

Lieff Cabraser served as Co-Lead Counsel for borrowers who alleged that Ameriquest engaged in a predatory lending scheme based on the sale of loans with illegal and undisclosed fees and terms. In August 2010, the Court approved a $22 million settlement.

***CATHOLIC HEALTHCARE WEST CASES,* JCCP NO. 4453 (CAL. SUPR. CT.)**

Plaintiff alleged that Catholic Healthcare West ("CHW") charged uninsured patients excessive fees for treatment and services, at rates far higher than the rates charged to patients with private insurance or on Medicare. In January 2007, the Court approved a settlement that provides discounts, refunds and other benefits for CHW patients valued at $423 million. The settlement requires that CHW lower its charges and end price discrimination against all uninsured patients, maintain generous charity case policies allowing low-income and uninsured patients to receive free or heavily discounted care, and protect uninsured patients from unfair collections practices. Lieff Cabraser served as Lead Counsel in the coordinated action.

***BERGER V. PROPERTY I.D. CORPORATION,* NO. CV 05-5373-GHK (C.D. CAL.)**

In January 2009, the Court granted final approval to a $39.4 million settlement with several of the nation's largest real estate brokerages, including companies doing business as Coldwell Banker, Century 21, and ERA Real Estate, and California franchisors for RE/MAX and Prudential California Realty, in an action under the Real

Estate Settlement Procedures Act on behalf of California home sellers. Plaintiffs charged that the brokers and Property I.D. Corporation set up straw companies as a way to disguise kickbacks for referring their California clients' natural hazard disclosure report business to Property I.D. (the report is required to sell a home in California). Under the settlement, hundreds of thousands of California home sellers were eligible to receive a full refund of the cost of their report, typically about $100.

***HEPTING V. AT&T CORP.*, CASE NO. C-06-0672-VRW (N.D. CAL.)**

Plaintiffs alleged that AT&T collaborated with the National Security Agency in a massive warrantless surveillance program that illegally tracked the domestic and foreign communications and communications records of millions of Americans in violation of the U.S. Constitution, Electronic Communications Privacy Act, and other statutes. The case was filed on January 2006. The U.S. government quickly intervened and sought dismissal of the case. By the Spring of 2006, over 50 other lawsuits were filed against various telecommunications companies, in response to a USA Today article confirming the surveillance of communications and communications records. The cases were combined into a multi-district litigation proceeding entitled In re National Security Agency Telecommunications Record Litigation, MDL No. 06-1791.

In June of 2006, the District Court rejected both the government's attempt to dismiss the case on the grounds of the state secret privilege and AT&T's arguments in favor of dismissal. The government and AT&T appealed the decision and the U.S. Court of Appeals for the Ninth Circuit heard argument one year later. No decision was issued. In July 2008, Congress granted the government and AT&T "retroactive immunity" for liability for their wiretapping program under amendments to the Foreign Intelligence Surveillance Act that were drafted in response to this litigation. Signed into law by President Bush in 2008, the amendments effectively terminated the litigation. Lieff Cabraser played a leading role in the litigation working closely with co-counsel from the Electronic Frontier Foundation.

***CINCOTTA V. CALIFORNIA EMERGENCY PHYSICIANS MEDICAL GROUP*, NO. 07359096 (CAL. SUPR. CT.)**

Lieff Cabraser served as class counsel for nearly 100,000 uninsured patients that alleged they were charged excessive and unfair rates for emergency room service across 55 hospitals throughout California. The settlement, approved on October 31, 2008, provided complete debt elimination, 100% cancellation of the bill, to uninsured patients treated by California Emergency Physicians Medical Group during the 4-year class period. These benefits were valued at $27 million. No claims were required, so all of these bills were canceled. In addition, the settlement required California Emergency Physicians Medical Group prospectively to (1) maintain certain discount policies for all charity care patients; (2) inform patients of the available discounts by enhanced communications; and (3) limit significantly the type of collections practices available for collecting from charity care patients.

***R.M. GALICIA V. FRANKLIN; FRANKLIN V. SCRIPPS HEALTH*, NO. IC 859468 (SAN DIEGO SUPR. CT.)**

Lieff Cabraser served as Lead Class Counsel in a certified class action lawsuit on behalf of 60,750 uninsured patients who alleged that the Scripps Health hospital system imposed excessive fees and charges for medical treatment. The class action originated in July 2006, when uninsured patient Phillip Franklin filed a class action cross-complaint against Scripps Health after Scripps sued Mr. Franklin through a collection agency. Mr. Franklin alleged that he, like all other uninsured patients of Scripps Health, was charged unreasonable and unconscionable rates for his medical treatment.

In June 2008, the Court granted final approval to a settlement of the action which includes refunds or discounts of 35% off of medical bills, collectively worth $73 million. The settlement also required Scripps Health to modify its pricing and collections practices by (1) following an Uninsured Patient Discount Policy, which includes automatic discounts from billed charges for Hospital Services; (2) following a Charity Care Policy, which provides uninsured patients who meet certain income tests with discounts on Health Services up to 100% free care, and provides for charity discounts under other special circumstances; (3) informing uninsured patients about the availability and terms of the above financial

assistance policies; and (4) restricting certain collections practices and actively monitoring outside collection agents.

***SUTTER HEALTH UNINSURED PRICING CASES,* JCCP NO. 4388 (CAL. SUPR. CT.)**

Plaintiffs alleged that they and a Class of uninsured patients treated at Sutter hospitals were charged substantially more than patients with private or public insurance, and many times above the cost of providing their treatment. In December 2006, the Court granted final approval to a comprehensive and groundbreaking settlement of the action. As part of the settlement, Class members were entitled to make a claim for refunds or deductions of between 25% to 45% from their prior hospital bills, at an estimated total value of $276 million. For a three year period, Sutter agreed to provide discounted pricing policies for uninsureds. In addition, Sutter agreed to maintain more compassionate collections policies that will protect uninsureds who fall behind in their payments. Lieff Cabraser served as Lead Counsel in the coordinated action.

***STRUGANO V. NEXTEL COMMUNICATIONS,* NO. BC 288359 (LOS ANGELES SUPR. CT.)**

In May 2006, the Los Angeles Superior Court granted final approval to a class action settlement on behalf of all California customers of Nextel from January 1, 1999 through December 31, 2002, for compensation for the harm caused by Nextel's alleged unilateral (1) addition of a $1.15 monthly service fee and/or (2) change from second-by-second billing to minute-by-minute billing, which caused "overage" charges (i.e., for exceeding their allotted cellular plan minutes). The total benefit conferred by the Settlement directly to Class Members was between approximately $13.5 million and $55.5 million, depending on which benefit Class Members selected.

***THOMPSON V. WFS FINANCIAL,* NO. 3-02-0570 (M.D. TENN.); *PAKEMAN V. AMERICAN HONDA FINANCE CORPORATION,* NO. 3-02-0490 (M.D. TENN.); *HERRA V. TOYOTA MOTOR CREDIT CORPORATION,* NO. CGC 03-419 230 (SAN FRANCISCO SUPR. CT.)**

Lieff Cabraser with co-counsel litigated against several of the largest automobile finance companies in the country to compensate victims of—and stop future instances of—racial discrimination in the setting of interest rates in automobile finance contracts. The litigation led to substantial changes in the way Toyota Motor Credit Corporation ("TMCC"), American Honda Finance Corporation ("American Honda") and WFS Financial, Inc. sell automobile finance contracts, limiting the discrimination that can occur.

In approving the settlement in *Thompson v. WFS Financial*, the Court recognized the "innovative" and "remarkable settlement" achieved on behalf of the nationwide class. In 2006 in Herra v. Toyota Motor Credit Corporation, the Court granted final approval to a nationwide class action settlement on behalf of all African-American and Hispanic customers of TMCC who entered into retail installment contracts that were assigned to TMCC from 1999 to 2006. The monetary benefit to the class was estimated to be between $159 and $174 million.

***MORRIS V. AT&T WIRELESS SERVICES,* NO. C-04-1997-MJP (W.D. WASH.)**

Lieff Cabraser served as class counsel for a nationwide settlement class of cell phone customers subjected to an end-of-billing cycle cancellation policy implemented by AT&T Wireless in 2003 and alleged to have breached customers' service agreements. In May 2006, the New Jersey Superior Court granted final approval to a class settlement that guarantees delivery to the class of $40 million in benefits. Class members received cash-equivalent calling cards automatically, and had the option of redeeming them for cash. Lieff Cabraser had been prosecuting the class claims in the Western District of Washington when a settlement in New Jersey state court was announced. Lieff Cabraser objected to that settlement as inadequate because it would have only provided $1.5 million in benefits without a cash option, and the Court agreed, declining to approve it. Thereafter, Lieff Cabraser negotiated the new settlement providing $40 million to the class, and the settlement was approved.

***CURRY V. FAIRBANKS CAPITAL CORPORATION,* NO. 03-10895-DPW (D. MASS.)**

In 2004, the Court approved a $55 million settlement of a

class action lawsuit against Fairbanks Capital Corporation arising out of charges against Fairbanks of misconduct in servicing its customers' mortgage loans. The settlement also required substantial changes in Fairbanks' business practices and established a default resolution program to limit the imposition of fees and foreclosure proceedings against Fairbanks' customers. Lieff Cabraser served as nationwide Co-Lead Counsel for the homeowners

***PROVIDIAN CREDIT CARD CASES,* JCCP NO. 4085 (SAN FRANCISCO SUPR. CT.)**

Lieff Cabraser served as Co-Lead Counsel for a certified national Settlement Class of Providian credit cardholders who alleged that Providian had engaged in widespread misconduct by charging cardholders unlawful, excessive interest and late charges, and by promoting and selling to cardholders "add-on products" promising illusory benefits and services. In November 2001, the Court granted final approval to a $105 million settlement of the case, which also required Providian to implement substantial changes in its business practices. The $105 million settlement, combined with an earlier settlement by Providian with Federal and state agencies, represents the largest settlement ever by a U.S. credit card company in a consumer protection case.

***IN RE TRI-STATE CREMATORY LITIGATION,* MDL NO. 1467 (N.D. GA.)**

In March 2004, Lieff Cabraser delivered opening statements and began testimony in a class action by families whose loved ones were improperly cremated and desecrated by Tri-State Crematory in Noble, Georgia. The families also asserted claims against the funeral homes that delivered the decedents to Tri-State Crematory for failing to ensure that the crematory performed cremations in the manner required under the law and by human decency. One week into trial, settlements with the remaining funeral home defendants were reached and brought the settlement total to approximately $37 million. Trial on the class members' claims against the operators of crematory began in August 2004.

Soon thereafter, these defendants entered into a $80 million settlement with plaintiffs. As part of the settlement, all buildings on the Tri-State property were razed. The property will remain in a trust so that it will be preserved in peace and dignity as a secluded memorial to those whose remains were mistreated, and to prevent crematory operations or other inappropriate activities from ever taking place there. Earlier in the litigation, the Court granted plaintiffs' motion for class certification in a published order. 215 F.R.D. 660 (2003).

***KLINE V. THE PROGRESSIVE CORPORATION,* CIRCUIT NO. 02-L-6 (CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT, JOHNSON COUNTY, ILLINOIS)**

Lieff Cabraser served as Settlement Class Counsel in a nationwide consumer class action challenging Progressive Corporation's private passenger automobile insurance sales practices. Plaintiffs alleged that the Progressive Corporation wrongfully concealed from class members the availability of lower priced insurance for which they qualified. In 2002, the Court approved a settlement valued at approximately $450 million, which included both cash and equitable relief. The claims program, implemented upon a nationwide mail and publication notice program, was completed in 2003.

***CITIGROUP LOAN CASES,* JCCP NO. 4197 (SAN FRANCISCO SUPR. CT.)**

In 2003, the Court approved a settlement that provided approximately $240 million in relief to former Associates' customers across America. Prior to its acquisition in November 2000, Associates First Financial, referred to as The Associates, was one of the nation's largest "subprime" lenders. Lieff Cabraser represented former customers of The Associates charging that the company added unwanted and unnecessary insurance products onto mortgage loans and engaged in improper loan refinancing practices. Lieff Cabraser served as nationwide Plaintiffs' Co-Liaison Counsel.

***REVERSE MORTGAGE CASES*, JCCP NO. 4061 (SAN MATEO COUNTY SUPR. CT., CAL.)**

Transamerica Corporation, through its subsidiary Transamerica Homefirst, Inc., sold "reverse mortgages" marketed under the trade name "Lifetime." The Lifetime reverse mortgages were sold exclusively to seniors, i.e., persons 65 years or older. Lieff Cabraser, with co-counsel, filed suit on behalf of seniors alleging that the terms of the reverse mortgages were unfair, and that borrowers were misled as to the loan terms, including the existence and amount of certain charges and fees. In 2003, the Court granted final approval to an $8 million settlement of the action.

***IN RE SYNTHROID MARKETING LITIGATION,* MDL NO. 1182 (N.D. ILL.)**

Lieff Cabraser served as Co-Lead Counsel for the purchasers of the thyroid medication Synthroid in litigation against Knoll Pharmaceutical, the manufacturer of Synthroid. The lawsuits charged that Knoll misled physicians and patients into keeping patients on Synthroid despite knowing that less costly, but equally effective drugs, were available. In 2000, the District Court gave final approval to a $87.4 million settlement with Knoll and its parent company, BASF Corporation, on behalf of a class of all consumers who purchased Synthroid at any time from 1990 to 1999. In 2001, the Court of Appeals upheld the order approving the settlement and remanded the case for further proceedings. 264 F.3d 712 (7th Cir. 2001). The settlement proceeds were distributed in 2003.

***IN RE AMERICAN FAMILY ENTERPRISES,* MDL NO. 1235 (D. N.J.)**

Lieff Cabraser served as Co-Lead Counsel for a nationwide class of persons who received any sweepstakes materials sent under the name "American Family Publishers." The class action lawsuit alleged that defendants deceived consumers into purchasing magazine subscriptions and merchandise in the belief that such purchases were necessary to win an American Family Publishers' sweepstakes prize or enhanced their chances of winning a sweepstakes prize. In September 2000, the Court granted final approval of a $33 million settlement of the class action. In April 2001, over 63,000 class members received refunds averaging over $500 each, representing 92% of their eligible purchases. In addition, American Family Publishers agreed to make significant changes to the way it conducts the sweepstakes.

CALIFORNIA TITLE INSURANCE INDUSTRY LITIGATION

Lieff Cabraser, in coordination with parallel litigation brought by the Attorney General, reached settlements in 2003 and 2004 with the leading title insurance companies in California, resulting in historic industry-wide changes to the practice of providing escrow services in real estate closings. The settlements brought a total of $50 million in restitution to California consumers, including cash payments. In the lawsuits, plaintiffs alleged, among other things, that the title companies received interest payments on customer escrow funds that were never reimbursed to their customers. The defendant companies include Lawyers' Title, Commonwealth Land Title, Stewart Title of California, First American Title, Fidelity National Title, and Chicago Title.

VW PORSCHE AUDI BENTLEY REDUCED FUEL ECONOMY MPG LAWSUIT

In 2015, the U.S. Environmental Protection Agency issued a Notice of Violation to Volkswagen relating to 475,000 diesel-powered cars in the United States sold since 2008 under the VW and Audi brands on which VW installed "cheat device" software that intentionally changed the vehicles' emissions production during official testing. The emissions controls were turned off during actual road use, producing up to 40x more pollutants than the testing amounts in an extraordinary violation of U.S. clean air laws.

Private vehicle owners, government agencies, and attorneys general all sought relief from VW through litigation in U.S. courts. Civil cases and government claims were consolidated in federal court in Northern California, and U.S. District Judge Charles Breyer named Elizabeth Cabraser as Lead Counsel and Chair of the 22-member Plaintiffs Steering Committee in February of 2016. After nine months of intensive negotiation and extraordinary coordination led on the class plaintiffs' side by Lieff Cabraser founding partner Elizabeth Cabraser, a set of interrelated settlements totaling $14.7 billion were given final approval in 2016.

On May 11, 2017, a further settlement with a value of $1.2-$4.04 billion relating to VW's 3.0- liter engine vehicles received final approval. The Volkswagen emissions settlement was one of the largest payments in American history and the largest known consumer class settlement. The settlements were also unprecedented for their scope and complexity, involving the Department of Justice, Environmental Protection Agency (EPA), California Air Resources Board (CARB) and California Attorney General, the Federal Trade Commission (FTC), and private plaintiffs. The VW settlements were also wildly successful: Volkswagen removed from commerce or performed complete emissions modification on over 93% of all 2.0-liter vehicles, with over $8.4 billion in buyback offers, and buyback offers are past the $1 billion mark for 3.0-liter cars with over 90% of the those vehicles removed from commerce or modified.

CYBERSECURITY & DATA PRIVACY

Lieff Cabraser's Privacy & Cybersecurity practice group is a nationally-recognized leader in the pursuit of preserving individual privacy against the pervasive intrusions of digital technology into all aspects of our daily lives. Our firm has a proven track record of successfully taking-on the powerhouses of "big data" and social media. The Privacy & Cybersecurity practice group's honors include the National Law Journal's 2019 Elite Trial Lawyers award for privacy and data breach litigation and recognition as Law360's 2017 Data Privacy Practice Group of the Year.

Representative Current Cases

FACEBOOK PIXEL VIDEO PRIVACY PROTECTION ACT CASES

Lieff Cabraser, with co-counsel, has filed a series of privacy class action lawsuits alleging that defendants (video streaming services, media companies, etc.) disclose private customer information to Meta Platforms, Inc., f/k/a Facebook, in violation of the Video Privacy Protection Act. Plaintiffs allege that defendants have secretly, and without users' consent, embedded tracking software known as the Meta "Pixel" on their websites, so that an ordinary person could identify a specific individual's video watching-behavior using that individual's Facebook ID.

These cases are in different procedural stages. On March 5, 2024, a the court granted final approval of a $2.625 million class action settlement in *Fiorentino v. FloSports, Inc.*, No. 1:22-cv-11502-AK (D. Mass.). Plaintiff survived a motion to dismiss and obtained a favorable ruling in *Czarnionka v. Epoch Times Ass'n, Inc.,* No. 22 CIV. 6348 (AKH), 2022 WL 17069810, at *1 (S.D.N.Y. Nov. 17, 2022), motion to certify appeal denied, No. 22 CIV.6348 (AKH), 2022 WL 17718689 (S.D.N.Y. Dec. 15, 2022) (The Facebook ID disclosed by defendant "is sufficient for an ordinary person to identify Plaintiff and similarly situated individuals" and comprises PII under the VPPA). On January 22, 2023, the court granted preliminary approval of a class settlement. In *Vela, et al v. AMC Networks, Inc. d/b/a AMC+*, No. 1:23-cv-02524-ALC (S.D.N.Y.), the Court granted preliminary approval of a proposed settlement on January 10, 2024. And in *Collins, et al. v. Pearson Education, Inc.*, on March 1, 2024, the Court denied Defendant's motion to strike and motion to dismiss. See *Collins v. Pearson Educ., Inc.*, No. 23 CIV. 2219 (PAE), 2024 WL 895316, at *1 (S.D.N.Y. Mar. 1, 2024).

Other cases are in litigation and/or disclosed mediation postures.

ORACLE/DATA BROKER CONSUMER PRIVACY VIOLATIONS

Lieff Cabraser represents consumers in a class action lawsuit in federal court in California against tech giant Oracle, one of the world's largest data brokers. The lawsuit alleges Oracle improperly collects and sells the personal information of consumers to third parties without their consent, including detailed data on their behaviors, movements, social relationships, and interests. The complaint describes Oracle as key player in the "adtech" space, where massive volumes of personal information on the world's population is aggregated and used to identify and profile individuals for "targeted advertising" and/or other commercial and political purposes. As alleged in the complaint, this exploitation of personal information is based on invading consumers' privacy. Oracle's surreptitious data collection practices are not dependent upon any relationship that an Internet user has with Oracle, in fact, Oracle primarily collects data from persons with no privity whatsoever to Oracle. The Oracle case is currently in discovery.

DELAPAZ, ET AL. V. HCA HEALTHCARE, INC., CASE NO. 3:23-CV-00718 (D. TENN.)

In July 2023, Lieff Cabraser and co-counsel filed a class action lawsuit in federal district court in the Middle District of Tennessee against HCA Healthcare Inc. for negligence, breach of confidence, deceptive trade practices, and unjust enrichment, among other charges, relating to a massive data breach that exposed private personal data relating to approximately 11 million patients. HCA Healthcare Inc. is a Nashville, Tennessee-based company which describes itself as "one of the nation's largest healthcare providers, with hundreds of hospitals and clinics across the country." On July 10, 2023, HCA announced that a list with names, email addresses, phone numbers, birth dates, and appointment information had been fully exposed online. HCA indicated it was still investigating the exposure and would not confirm how many patients were affected, but noted that the list contained 27 million rows of data on about 11 million patients. The data privacy lawsuit seeks declaratory and injunctive relief as well as compensatory and general damages.

HOWARD, ET AL. V. LABORATORY CORPORATION OF AMERICA, ET AL., 23-CV-00758-UA-JEP (M.D.N.C.)

Lieff Cabraser and co-counsel have filed a class action lawsuit in the Middle District of North Carolina against Laboratory Corporation of America and Laboratory Corporation of America Holdings for collecting and facilitating the collection of identifiable and sensitive health information from users of Labcorp's website using invisible tracking technology, including the Meta Pixel. The case is currently in the midst of motion to dismiss briefing.

IN RE GOOGLE LLC LOCATION HISTORY LITIGATION, NO. 5:18-CV-05062-EJD (N.D. CAL.)

Lieff Cabraser serves as Co-Lead Interim Class Counsel representing individuals whose locations were tracked, and whose location information was stored and used by Google for its own purposes after the consumers disabled a feature that was supposed to prevent Google from storing a record of their locations. Plaintiffs allege that, for years, Google deliberately misled its users that their "Location History" settings would prevent Google from tracking and storing a permanent record of their movements, when in fact despite users' privacy settings, Google did so anyway. Plaintiffs allege that Google's conduct violates its users' reasonable expectations of privacy and is unlawful under the California Constitutional Right to Privacy and the common law of intrusion upon seclusion, as well as giving rise to claims for unjust enrichment and disgorgement. In November 2023, the Court granted preliminary approval of a settlement with Google, which provides for a $62 million payment and valuable injunctive relief. A final approval hearing is scheduled for April 18, 2024.

KARLING, ET AL. V. SAMSARA INC., 22-CV-295 (N.D. ILL.)

Lieff Cabraser and co-counsel represent a proposed class of individuals who had their biometric information collected by Samsara Inc. in violation of Illinois' Biometric Information Privacy Act. In July 2022, Judge Sara Ellis denied Samsara's motion to dismiss in full, sustaining four claims under BIPA. The case is presently in discovery.

CHABAK V. SOMNIA, NO. 22-CV-9341 (S.D.N.Y.).

Lieff Cabraser serves as Co-Lead Counsel in class action litigation against Somnia, Inc., an anesthesiology services provider and practice management company that manages numerous anesthesiology providers and individual anesthesiology providers over a 2022 data breach that impacted the personally identifiable information and private health information of almost half a million patients. Plaintiffs allege that Somnia and the anesthesiology providers Somnia manages failed to fulfill their legal duty to protect customers' sensitive personal, financial, and health information by implementing insufficient data security practices and providing insufficient notice after the breach. The complaint asserts claims for negligence, negligence per se, breach of confidence, unjust enrichment, and violations of numerous California consumer protection statutes. Parties are currently briefing defendants' motion to dismiss.

CAVANAUGH V. LYTX, INC., 21-CV-5427 (N.D. ILL.)

Lieff Cabraser was appointed interim co-lead counsel in a proposed class action on behalf of individuals who had their biometric information collected by Lytx Inc. in violation of Illinois' Biometric Information Privacy Act. Plaintiffs filed their amended complaint in November 2022, and are awaiting its resolution.

IN RE: AMERICAN MEDICAL COLLECTION AGENCY, INC., CUSTOMER DATA SEC. BREACH LITIG., NO. 19-MD-2904 (D. N.J.)

Lieff Cabraser serves as Co-Lead Counsel on the Quest track in class action litigation against Quest Diagnostics Inc., Laboratory Corporation of America, and other blood testing and diagnostic companies that shared, or facilitated the sharing of, customers' personal identifying financial and health information with a third-party debt collector American Medical Collection Agency that was breached. Plaintiffs allege that Quest (and other blood-testing labs) failed to fulfill its legal duty to protect customers' sensitive personal, financial, and health information by sharing it with a third-party that lacked adequate data security. The complaints against each lab company allege that they were negligent, unjustly enriched, and violated numerous state consumer protection statutes. In December 2021, the Court denied defendants' motions to dismiss in part and in September 2023, the Court denied defendants' second round of motions to dismiss in part. The case is nearing the close of discovery.

META DMV DATA PRIVACY CLASS ACTION

Lieff Cabraser represents the proposed plaintiff class in a action lawsuit alleging that Meta Platforms, formerly known as Facebook, violated privacy laws by obtaining users' protected personal information from the California Department of Motor Vehicles, including names, disability information, and e-mail addresses, as well as confidential communications.

The complaint alleges that Meta did this through the implementation of a ubiquitous but hidden tracking code known as the Meta "Pixel," which sends Meta time-stamped, personally-identifiable records of users' personal information, activities and communications on the California DMV website. Through the Pixel's surveillance, the complaint alleges that Meta is able to obtain vast quantities of private data on a daily basis from the DMV, including the first names of users who click into their "MyDMV" portal page; the identities of persons with disabilities who start disabled parking placard applications on the DMV website; e-mail addresses belonging to users who check the status of pending applications; and the personally identifying contents of communications between users and the DMV. The suit alleges that this widespread collection of personal information violates DMV website users' privacy rights under the Federal Driver's Privacy Protection Act and the California Invasion of Privacy Act.

IN RE: MARRIOTT INT'L CUSTOMER DATA SEC. BREACH LITIG., NO. 19-MD-2879 (D. MD.)

Lieff Cabraser serves as a member of the Steering Committee in class action litigation against Marriott International Inc. and Accenture PLC for a 2018 data breach of Starwood Hotels affecting more than 100 million U.S. citizens. Plaintiffs allege that Marriott and Accenture failed to fulfill their legal duties to protect Marriott's customers' sensitive personal and financial information, causing class members' personal information, including credit card and passport numbers, to be exfiltrated by cybercriminals. In May 2022, then-U.S. District Court Judge Paul Grimm granted in part Plaintiffs' class certification motion, certifying three damages classes and four issues classes. In November 2023, after the Fourth Circuit remanded the action for the District Court to consider the import of Marriott's purported class action waiver, Judge John Preston Bailey reinstated the May 2022 classes certified by Judge Grimm.

CYBERSECURITY & DATA PRIVACY

Representative Achievements & Successes

***IN RE GOOGLE LLC STREET VIEW ELECTRONIC COMMUNICATIONS LITIGATION*, NO. 3:10-MD-021784-CRB (N.D. CAL.)**

Lieff Cabraser represents individuals whose right to privacy was violated when Google intentionally equipped its Google Maps "Street View" vehicles with Wi-Fi antennas and software that collected data transmitted by those persons' Wi-Fi networks located in their nearby homes. Google collected not only basic identifying information about individuals' Wi-Fi networks, but also personal, private data being transmitted over their Wi-Fi networks such as emails, usernames, passwords, videos, and documents. Plaintiffs allege that Google's actions violated the federal Wiretap Act, as amended by the Electronic Communications Privacy Act. On September 10, 2013, the Ninth Circuit Court of Appeals held that Google's actions were not exempt from the Act.

On March 20, 2020, U.S. District Judge Charles R. Breyer granted final approval to a $13 million settlement over Google's illegal gathering of network data via its Street View vehicle fleet. Given the difficulties of assessing precise individual harms, the innovative settlement, which is intended in part to disincentivize companies like Google from future privacy violations, will distribute its monies to eight nonprofit organizations with a history of addressing online consumer privacy issues. Judge Breyer's order to distribute the settlement funds to nonprofit organizations is currently on appeal.

***IN RE ANTHEM, INC. DATA BREACH LITIG.*, NO. 5:15-MD-02617 (N.D. CAL.)**

Lieff Cabraser served on the Plaintiffs' Steering Committee representing individuals in a class action lawsuit against Anthem for its alleged failure to safeguard and secure the medical records and other personally identifiable information of its members. The second largest health insurer in the U.S., Anthem provides coverage for 37.5 million Americans. Anthem's customer database was allegedly attacked by international hackers on December 10, 2014. Anthem says it discovered the breach on January 27, 2015, and reported it about a week later on February 4, 2015. California customers were informed around March 18, 2015. The theft included names, birth dates, social security numbers, billing information, and highly confidential health information. The complaint charged that Anthem violated its duty to safeguard and protect consumers' personal information, and violated its duty to disclose the breach to consumers in a timely manner. In addition, the complaint charged that Anthem was on notice about the weaknesses in its computer security defenses for at least a year before the breach occurred.

In August 2018, Judge Lucy H. Koh of the U. S. District Court for the Northern District of California granted final approval to a class action settlement which required Anthem to undertake significant additional cybersecurity measures to better safeguard information going forward, and to pay $115 million into a settlement fund from which benefits to settlement class members would be paid.

***IN RE PLAID INC. PRIVACY LITIG.*, NO. 4:20-CV-03056 (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Interim Class Counsel in a class action lawsuit alleging that financial tech company Plaid Inc. invaded consumers' privacy in their financial affairs. Plaid provides third-party bank account authentication services for several well-known payment apps, such as Venmo, Coinbase, Square's Cash App, and Stripe. Plaintiffs alleged that Plaid used login screens that misleadingly looked like those of real banks to obtain consumers' banking account credentials, and subsequently used consumers' credentials to access their bank accounts and improperly take their banking data. Plaintiffs argued that Plaid's intrusions violated established social norms, and exposed consumers to

additional privacy risks. The lawsuit asserted claims under state and federal consumer protection and privacy laws. In July 2022, the court granted final approval to a $58 million settlement that included injunctive relief to stop the conduct and purge all improperly obtained data.

***BALDERAS V. TINY LAB PRODUCTIONS, ET AL.*, CASE 6:18-CV-00854 (D. NEW MEXICO)**

Lieff Cabraser, with co-counsel, is working with the Attorney General of the State of New Mexico to represent parents, on behalf of their children, in a federal lawsuit seeking to protect children in the state from a foreign developer of child-directed apps and its marketing partners, including Google's ad network, Google AdMob. The lawsuit alleges that Google, child-app developer Tiny Lab Productions, and their co-defendants surreptitiously harvested children's personal information for profiling and targeting children for commercial gain, without adequate disclosures and verified parental consent. When children played Tiny Lab's gaming apps on their mobile devices, defendants collected and used their personal data, including geolocation, persistent identifiers, demographic characteristics, and other personal data in order to serve children with targeted advertisements or otherwise commercially exploit them.

The apps at issue, clearly and indisputably designed for children, include Fun Kid Racing, Candy Land Racing, and GummyBear and Friends Speed Racing. The action largely survived a motion to dismiss in 2020 and a motion for reconsideration of the same in 2021, and seeks redress under the federal Children's Online Privacy Protection Act and the common law. The State settled with Google in December 2021.

***CAMPBELL V. FACEBOOK*, NO. 4:13-CV-05996 (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Class Counsel in a nationwide class action lawsuit alleging that Facebook intercepted certain private data in users' personal and private messages on the social network and profited by sharing that information with third parties.

In December 2014, the Court in large part denied Facebook's motion to dismiss. In rejecting one of Facebook's core arguments, U.S. District Court Judge Phyllis Hamilton stated: "An electronic communications service provider cannot simply adopt any revenue-generating practice and deem it 'ordinary' by its own subjective standard." In August of 2017, Judge Hamilton granted final approval to an injunctive relief settlement of the action. As part of the settlement, Facebook has ceased the offending practices and has made changes to its operative relevant user disclosures.

GOOGLE VIRUS-TRACING APP DATA EXPOSURE

Lieff Cabraser served as Lead Counsel in a privacy class action on behalf of Android users concerning Google's unlawful exposure of confidential medical information and personally identifying information through its digital contract tracing system designed by Google to slow or stop the spread of COVID-19 on Android mobile devices. Plaintiffs resolved the suit via a novel early resolution process with plaintiffs' consulting expert's review of highly confidential information from Google, which generated significant injunctive relief to fix the fundamental error, followed by legally-binding representations and warranties from Google. On October 31, 2022, Judge Nathanael M. Cousins granted final approval to the settlement.

***IN RE INTUIT DATA LITIG.*, NO. 5:15-CV-01778-EJD (N.D. CAL.)**

Lieff Cabraser represented identity theft victims in a nationwide class action lawsuit against Intuit for allegedly failing to protect consumers' data from foreseeable and preventable breaches, and by facilitating the filing of fraudulent tax returns through its TurboTax software program. The complaint alleged that Intuit failed to protect data provided by consumers who purchased TurboTax, used to file an estimated 30 million tax returns for American taxpayers every year, from easy access by hackers and other cybercriminals. The complaint further alleged that Intuit was aware of the widespread use of TurboTax exclusively for the filing of fraudulent tax returns. Yet, Intuit failed to adopt basic cyber security policies to

prevent this misuse of TurboTax. As a result, fraudulent tax returns were filed in the names of the plaintiffs and thousands of other individuals across America, including persons who never purchased TurboTax. In May 2019, Judge Edward J. Davila of the U. S. District Court for the Northern District of California granted final approval to a settlement that provided all class members who filed a valid claim with free credit monitoring and identity restoration services, and required Intuit to commit to security changes for preventing future misuse of the TurboTax platform.

***MCDONALD, ET AL. V. KILOO A/S, ET AL.*, NO. 3:17-CV-04344-JD; *RUSHING, ET AL. V. THE WALT DISNEY CO., ET AL.*, NO. 3:17-CV-04419-JD; *RUSHING V. VIACOMCBS, ET AL.*, NO. 3:17-CV-04492-JD (N.D. CAL.)**

Lieff Cabraser represented parents, on behalf of their children, in federal class action litigation against numerous online game and app producers including Disney, Viacom, and the makers of the vastly popular Subway Surfers game (Kiloo and Sybo), over allegations the companies unlawfully collected, used, and disseminated the personal information of children who played the gaming apps on smart phones, tablets, and other mobile devices. The actions proceeded under time-honored laws protecting privacy: a California common law invasion of privacy claim, a California Constitution right of privacy claim, a California unfair competition claim, a New York General Business Law claim, a Massachusetts Unfair and Deceptive Trade Practices claim, and a Massachusetts statutory right to privacy claim.

In April 2021, U.S. District Judge James Donato granted final approval to settlements in the three related child privacy class action lawsuits addressing the illegal collection and monetization of personal data from children in mobile apps. The 16 settlements provide stringent and wide-ranging privacy protections and meaningful changes to defendants' business practices, ensuring participants in the largely unpoliced mobile advertising industry proactively protect children's privacy in thousands of apps popular with children. Under the settlements, which *The New York Times* stated "could reshape the entire children's app market," Disney, Viacom, and others as well as their advertising technology partners had to stop tracking children across apps and the internet for advertising purposes.

***MATERA V. GOOGLE INC.*, NO. 5:15-CV-04062 (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Class Counsel representing consumers in a digital privacy class action against Google Inc. over claims the popular Gmail service conducted unauthorized scanning of email messages to build marketing profiles and serve targeted ads. The complaint alleged that Google routinely scanned email messages that were sent by non-Gmail users to Gmail subscribers, analyzed the content of those messages, and then shared that data with third parties in order to target ads to Gmail users, an invasion of privacy that violated the California Invasion of Privacy Act and the federal Electronic Communications Privacy Act.

In February 2018, Judge Lucy H. Koh of the U. S. District Court for the Northern District of California granted final approval to a class action settlement. Under the settlement, Google made business-related changes to its Gmail service, as part of which, Google will no longer scan the contents of emails sent to Gmail accounts for advertising purposes, whether during the transmission process or after the emails have been delivered to the Gmail user's inbox.

***EBARLE ET AL. V. LIFELOCK INC.*, NO. 3:15-CV-00258 (N.D. CAL.)**

Lieff Cabraser represented consumers who subscribed to LifeLock's identity theft protection services in a nationwide class action fraud lawsuit alleging that LifeLock did not protect the personal information of its subscribers from hackers and criminals, and specifically that, contrary to its advertisements and statements, LifeLock lacked a comprehensive monitoring network, failed to provide "up-to-the-minute" alerts of suspicious activity, and did an inferior job of providing the same theft protection services that banks and credit card companies provide, often for free. On September 21, 2016, U.S. District Judge Haywood Gilliam, Jr. granted final approval to a $68 million settlement of the case.

***IN RE CARRIER IQ PRIVACY LITIGATION*, MDL NO. 2330 (N.D. CAL.)**

Lieff Cabraser represented a plaintiff in multi-district litigation against Samsung, LG, Motorola, HTC, and Carrier IQ alleging that smartphone manufacturers violated privacy laws by installing tracking software, called IQ Agent, on millions of cell phones and other mobile devices that use the Android operating system. Without notifying users or obtaining consent, IQ Agent tracked users' keystrokes, passwords, apps, text messages, photos, videos, and other personal information and transmitted this data to cellular carriers. In a 96-page order issued in January 2015, U.S. District Court Judge Edward Chen granted in part, and denied in part, defendants' motion to dismiss. Importantly, the Court permitted the core Wiretap Act claim to proceed, as well as the claims for violations of the Magnuson-Moss Warranty Act, the California Unfair Competition Law, and breach of the common law duty of implied warranty. In 2016, the Court granted final approval to a $9 million settlement plus injunctive relief provisions.

***PERKINS V. LINKEDIN CORP.*, NO. 13-CV-04303-LHK (N.D. CAL.)**

Lieff Cabraser represented individuals who joined LinkedIn's network and, without their consent or authorization, had their names and likenesses used by LinkedIn to endorse LinkedIn's services and send repeated emails to their contacts asking that they join LinkedIn. On February 16, 2016, the Court granted final approval to a $13 million settlement, one of the largest per-class member settlements ever in a digital privacy class action. In addition to the monetary relief, LinkedIn agreed to make significant changes to Add Connections disclosures and functionality. Specifically, LinkedIn revised disclosures to real-time permission screens presented to members using Add Connections, agreed to implement new functionality allowing LinkedIn members to manage their contacts, including viewing and deleting contacts and sending invitations, and to stop reminder emails from being sent if users had sent connection invitations inadvertently.

***CORONA V. SONY PICTURES ENTERTAINMENT*, NO. 2:14-CV-09660-RGK (C.D. CAL.)**

Lieff Cabraser served as Plaintiffs' Co-Lead Counsel in class action litigation against Sony for failing to take reasonable measures to secure the data of its employees from hacking and other attacks. As a result, personally identifiable information of thousands of current and former Sony employees and their families was obtained and published on websites across the Internet. Among the staggering array of personally identifiable information compromised were medical records, Social Security Numbers, birth dates, personal emails, home addresses, salaries, tax information, employee evaluations, disciplinary actions, criminal background checks, severance packages, and family medical histories. The complaint charged that Sony owed a duty to take reasonable steps to secure the data of its employees from hacking. Sony allegedly breached this duty by failing to properly invest in adequate IT security, despite having already succumbed to one of the largest data breaches in history only three years earlier. In October 2015, an $8 million settlement was reached under which Sony agreed to reimburse employees for losses and harm.

ECONOMIC INJURY PRODUCT DEFECT

Lieff Cabraser has successfully litigated and settled hundreds of economic injury defective products class action lawsuits in federal and state courts, including multiple dozens of cases requiring manufacturers to remedy a defect, extend warranties, and refund to consumers the cost of repairing defective products. Working with co-counsel, we have achieved judgments and settlements that have recovered more than $4.7 billion in these cases, as well as other valuable relief such as product fixes and extended warranties. The economic injury product defects cases handled by Lieff Cabraser span an extraordinary range of industries and goods, from faulty pipes, furnaces, shingles, decks, railings and other home construction products to computers, computer components, appliances and other electronic devices, on to tires, vehicles, and other vehicle components of all kinds.

Representative Current Cases

***HAWKINS V. SHIMANO NORTH AMERICA BICYCLE INC.*, 8:23-CV-02038 (C.D. CAL.)**

Lieff Cabraser has been appointed Interim Co-Lead Counsel in this consolidated litigation involving allegedly defective bicycle cranksets, the part of the bicycle that the pedals and chain attach to for pedaling. Shimano has recalled hundreds of thousands of these cranksets, which can separate and break while a bicyclist is riding, posing serious safety hazards. Plaintiffs recently filed an amended complaint, and discovery is underway.

IN RE ARC AIRBAG INFLATORS PRODUCTS LIABILITY LITIGATION, NO. 1:22-MD-3051 (N.D. GA.)

Lieff Cabraser represents consumers from every state who own or lease vehicles containing airbag inflators manufactured by ARC Automotive, Inc. This lawsuit alleges that these inflators, as revealed by an ongoing federal recall investigation and press reports, contain a defect that makes them subject to rupture, putting occupants of the vehicle at risk of harm and impairing the value of the cars. In March 2023, Judge Eleanor L. Ross of the Northern District of Georgia appointed Lieff Cabraser partner David Stellings to the Plaintiffs' Leadership Committee in this case. The defendants—who include many major automakers, parts suppliers, and ARC—moved to dismiss the complaint. That motion is pending before the court.

MERCEDES-BENZ SUBFRAME RUST & CORROSION LITIGATION

***SOWA, ET AL. V. MERCEDES-BENZ USA* AND *MERCEDES-BENZ GROUP AG*, NO. 1:23-CV-00636-SEG (N.D. GEORGIA).**

In February 2023, Lieff Cabraser and co-counsel filed an automotive defect class action lawsuit in federal district court in Georgia against Mercedes-Benz USA LLC and Mercedes-Benz Group AG alleging breach of warranty and violation of state consumer fraud laws, relating to rust or corrosion of the subframe in 2010-2022 models across the Mercedes-Benz vehicle line, including Classes C, E, GLK/GLC, CLS, SLK/SLC, and SL. Plaintiffs brought this lawsuit to force Mercedes to warn consumers about a dangerous defect in the rear subframes and adjacent parts of their vehicles and compensate them for their damages arising from the defect. Plaintiffs allege that the vehicle subframes and adjacent parts prematurely rust and corrode, costing consumers thousands of dollars in repairs that Mercedes has refused to cover. The rust and corrosion can adversely affect driveability and braking, and cause the rear subframes to fail while the vehicles are in motion. As a result, thousands of owners have paid out of pocket for repairs and related costs, while many more are still unknowingly driving unsafe vehicles.

The complaint further alleges that Mercedes has known of the defect for many years, including through consumer complaints made directly to Mercedes, complaints made to the National Highway Transportation Safety Administration's Office of Defect Investigation, and complaints posted on public online vehicle owner forums, as well as other internal sources unavailable to Plaintiffs and their counsel without discovery. In addition, the complaint details that, despite Mercedes' refusal to acknowledge the defect or pay in full for the repairs it requires, Mercedes' authorized dealers have told owners who complain that premature subframe corrosion is a common problem with Mercedes vehicles.

The complaint explains that, because subframe corrosion occurs "from the inside out," the defect is not apparent even to a trained mechanic until the rear subframe is dangerously corroded, near total failure, and has rendered the vehicle unsafe to operate. Replacing the rear subframe and other impacted parts typically costs from $3,500 to more than $7,000.

In April of 2023, Lieff Cabraser was named interim Co-Lead Class Counsel for the plaintiff consumers in the Mercedes-Benz subframe rust and corrosion product

defect litigation.

***IN RE: GENERAL MOTORS CORP. AIR CONDITIONING MARKETING AND SALES PRACTICES LITIGATION.*, MDL NO. 2818 (E.D. MICH.)**

Lieff Cabraser serves as Co-Lead Plaintiffs' Counsel in a consumer fraud class action against General Motors Company consolidated in Michigan federal court on behalf of all persons who purchased or leased certain GM vehicles equipped with an allegedly defective air conditioning system. The lawsuit claims the vehicles have a serious defect that causes the air conditioning systems to crack and leak refrigerant, lose pressure, and fail to function properly to provide cooled air into the vehicles. These failures lead owners and lessees to incur significant costs for repair, often successive repairs as the repaired parts prove defective as well. The complaint lists causes of action for violations of various states' Consumer Protection Acts, fraudulent concealment, breach of warranty, and unjust enrichment, and seeks declaratory and injunctive relief, including an order requiring GM to permanently repair the affected vehicles within a reasonable time period, as well as compensatory, exemplary, and statutory damages.

***JORDAN V. SAMSUNG ELECTRONICS AMERICA*, NO. 2:22-CV-02828 (D.N.J.)**

Lieff Cabraser and co-counsel represent consumers in a federal product defect lawsuit against Samsung alleging that certain of the company's refrigerators do not keep food cold enough to prevent illness. The suit accuses Samsung of unjust enrichment, false advertising, and consumer fraud relating to the sale of a line of refrigerators with double French doors and a bottom freezer that fail to properly keep foods cool.

***FORD F-150 BRAKES* (E.D MICH)**

Lieff Cabraser has been appointed Co-Lead Counsel in this multidistrict litigation where millions of Ford trucks are alleged to have defective brakes that unexpectedly malfunction, increasing stopping distances and putting the motoring public at risk. The court has certified liability classes in five states. The litigation is ongoing.

***FORD ECOBOOST ENGINE FAILURES* (E.D. CAL)**

Lieff Cabraser has been appointed Co-Lead Counsel in this litigation alleging that defectively designed engines in millions of Ford vehicles with EcoBoost engines can experience coolant leaks, overheat, and, in some case, catch fire.

***FIAT CHRYLSER EXPLODING HEAD RESTS* (E.D. CAL)**

Lieff Cabraser has been appointed Co-Lead Class Counsel for a certified class of California purchasers of hundreds of thousands of vehicles, including Jeeps and Dodges, that have "active head rests" that can explode unexpectedly, causing driver distraction and head and neck injuries.

***IN RE: EVENFLO COMPANY, INC., MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION*, NO. 1:20-MD-02938 (D. MASS.)**

We serve as Co-Lead Counsel for plaintiffs in multidistrict litigation accusing Evenflo of improper, fraudulent, and dangerous marketing of child car booster seats. As alleged in the complaint, Evenflo knew, even while it was making representations to consumers about the professed safety of its Big Kid Booster, that the seats were not safe, should not be used by children under forty pounds, and provided little to no side-impact protection. In November 2022, the First Circuit Court of Appeal revived the litigation, ruling that the lower court erred in concluding in January 2022 that consumers in the litigation lacked standing to sue for damages.

***CARDER V. GRACO CHILDREN'S PRODUCTS, INC.*, NO. 2:20-CV-00137 (N.D. GA.)**

Lieff Cabraser serves on the Plaintiff Steering Committee in federal litigation in Georgia over claims that Graco misrepresented the safety features of certain of its booster seats, causing consumers to pay inflated prices for the products.

ECONOMIC INJURY PRODUCT DEFECT

Representative Achievements & Successes

***IN RE NAVISTAR MAXXFORCE ENGINES MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION*, CASE NO. 1:14-CV-10318 (N.D. ILL.)**

In January 2020, Judge Joan B. Gottschall of the U.S. District Court for the Northern District of Illinois issued an Order granting final approval to a $135 million settlement of multidistrict litigation brought by Lieff Cabraser and co-counsel on behalf of plaintiff truck owners and lessees alleging that Navistar, Inc. and Navistar International, Inc. sold or leased 2011-2014 model year vehicles equipped with certain MaxxForce 11- or 13-liter diesel engines equipped with a defective EGR emissions system.

Judge Gottschall ruled that the proposed class action settlement which had been submitted to the Court in May 2019, was fair, reasonable, and adequate in addressing plaintiffs' claims. Owners and lessees of the affected trucks had until May 11, 2020 to file their settlement claims at an official case website. The $135 million settlement provided class members with up to $2,500 per truck or up to $10,000 rebate off a new truck, depending on months of ownership or lease, or with the option to seek up to $15,000 per truck in out-of-pocket damages caused by the alleged defect.

***IN RE VOLKSWAGEN 'CLEAN DIESEL' MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION*, MDL NO. 2672 (N.D. CAL.)**

In 2015, the U.S. Environmental Protection Agency issued a Notice of Violation to Volkswagen relating to 475,000 diesel-powered cars in

the United States sold since 2008 under the VW and Audi brands on which VW installed "cheat device" software that intentionally changed the vehicles' emissions production during official testing. The controls were turned off during actual road use, producing up to 40x more pollutants than the testing amounts in an extraordinary violation of U.S. clean air laws.

Private vehicle owners, government agencies, and attorneys general all sought relief from VW through litigation in U.S. courts. Civil cases and government claims were consolidated in federal court in Northern California, and U.S. District Judge Charles Breyer named Elizabeth Cabraser as Lead Counsel and Chair of the 22-member Plaintiffs Steering Committee in February of 2016.

After nine months of intensive negotiation and extraordinary coordination led on the class plaintiffs' side by Ms. Cabraser,, a set of interrelated settlements totaling $14.7 billion were given final approval in 2016. On May 11, 2017, a further settlement with a value of $1.2-$4.04 billion relating to VW's 3.0- liter engine vehicles received final approval. The Volkswagen emissions settlement is one of the largest payments in American history and the largest known consumer class settlement. The settlements are unprecedented also for their scope and complexity, involving the Department of Justice, Environmental Protection Agency (EPA), California Air Resources Board (CARB) and California Attorney General, the Federal Trade Commission (FTC), and private plaintiffs.

The VW settlements were wildly successful: Volkswagen removed from commerce or performed complete emissions modification on over 93% of all 2.0-liter vehicles, with over $8.4 billion in buyback offers, and buyback offers are past the $1 billion mark for 3.0-liter cars with over 90% of the those vehicles removed from commerce or modified.

***IN RE GENERAL MOTORS LLC IGNITION SWITCH LITIGATION*, MDL NO. 2543 (S.D.N.Y.)**

Lieff Cabraser represented proposed nationwide classes of GM vehicle owners and lessees whose cars included defective ignition switches in litigation focusing on economic loss claims. On August 15, 2014, U.S. District Court Judge Jesse M. Furman appointed Elizabeth J. Cabraser as Co-Lead Plaintiffs' Counsel in the litigation, which sought compensation on behalf of consumers who purchased or leased GM vehicles containing a defective ignition switch, over 500,000 of which have been recalled. The consumer complaints alleged that the ignition switches in these vehicles shared a common, uniform, and defective design. As a result, these cars were of a lesser quality than GM represented, and class members overpaid for the cars. Further, GM's public disclosure of the ignition switch defect caused the value of these cars to materially diminish. The complaints sought monetary relief for the diminished value of the class members' cars.

***ALLAGAS V. BP SOLAR*, NO. 3:14-CV-00560-SI (N.D. CAL.)**

Lieff Cabraser and co-counsel represented California consumers in a class action lawsuit against BP Solar and Home Depot charging the companies sold solar panels with defective junction boxes that caused premature failures and fire risks. In January 2017, Judge Susan Illston granted final approval to a consumer settlement valued at more than $67 million that extended relief to a nationwide class as well as eliminating the serious fire risks.

FRONT-LOADING WASHER PRODUCTS LIABILITY LITIGATION

Lieff Cabraser represented consumers in multiple states who filed separate class action lawsuits against Whirlpool, Sears and LG Corporations charging that certain front-loading automatic washers manufactured by these companies were defectively designed and that the design defects created foul odors from mold and mildew that permeated washing machines and customers' homes. Many class members spent money for repairs and on other purported remedies, none of which eliminated the problem. These cases were all settled favorably on behalf of our clients and the classes.

In the Whirlpool and Sears cases, we obtained significant court of appeals rulings; see *Butler I and II v. Sears*, 702 F.3d 359 (7th Cir. 2012), reh'g en banc denied, (7th Cir. Dec. 19, 2012), vacated, 569 U.S. 1015 (2013), reinstated, 727 F.3d 796 (7th Cir. 2013) (reversing lower court denial

of class certification in moldy washer consumer case) (no oral argument) and *In re: Whirlpool Corporation Front-Loading Washer Products Liability Litigation*, 678 F.3d 409 (6th Cir. 2012), reh'g en banc denied, (6th Cir. June 18, 2012), vacated, 569 U.S. 901 (2013), reinstated, 722 F.3d 838 (6th Cir. 2013) (affirming lower court grant of class certification in moldy washer consumer case) (briefing and oral argument).

***TAKATA AIRBAG DEFECT CASES/IN RE TAKATA AIRBAG LITIGATION*, MDL NO. 2599 (S.D. FL.)**

Lieff Cabraser served on the Plaintiffs Steering Committee in national litigation related to Takata Corporation's defective and dangerous airbags. Nearly 42 million vehicles were recalled worldwide, the largest automotive recall in U.S. history. An unstable propellant caused some airbags to explode upon impact in accidents, shooting metal debris at drivers and passengers. Close to 300 injuries, including 23 deaths, were linked to the defect. The complaints included charges the company knew of the defects but concealed them from safety regulators for over ten years. Lieff Cabraser and co-counsel secured over $1.5 billion in settlements from Honda, Toyota, Ford, Nissan, BMW, Subaru, and Mazda. Litigation continues against Volkswagen, Mercedes, Fiat Chrysler, and General Motors.

***MOORE, ET AL. V. SAMSUNG ELECTRONICS AMERICA AND SAMSUNG ELECTRONICS CO., LTD.*, NO. 2:16-CV-4966 (D.N.J.)**

Lieff Cabraser represented consumers in federal court in New Jersey in cases focusing on complaints about Samsung top-loading washing machines that exploded in the home, causing damage to walls, doors, and other equipment, and presenting significant injury risks. Owners reported Samsung top-load washers exploding as early as the day of installation, while others saw their machines explode months or even more than a year after purchase. The lawsuit successfully obtained injunctive relief as well as remediation, restitution, and damages.

***MCLENNAN V. LG ELECTRONICS USA*, NO. 2:10-CV-03604 (D. N.J.)**

Lieff Cabraser represented consumers who alleged several LG refrigerator models had a faulty design that caused the interior lights to remain on even when the refrigerator doors were closed (identified as the "light issue"), resulting in overheating and food spoilage. In March 2012, the Court granted final approval to a settlement of the nationwide class action lawsuit. The settlement provided that LG reimburse class members for all out-of-pocket costs (parts and labor) to repair the light issue prior to the mailing of the class notice and extended the warranty with respect to the light issue for ten years from the date of the original retail purchase of the refrigerator. The extended warranty covered in-home refrigerator repair performed by LG and, in some cases, the cost of a replacement refrigerator. In approving the settlement, U.S. District Court Judge William J. Martini stated, "The Settlement in this case provides for both the complete reimbursement of out-of-pocket expenses for repairs fixing the Light Issue, as well as a warranty for ten years from the date of refrigerator purchase. It would be hard to imagine a better recovery for the Class had the litigation gone to trial. Because Class members will essentially receive all of the relief to which they would have been entitled after a successful trial, this factor weighs heavily in favor of settlement."

***IN RE MERCEDES-BENZ TELE-AID CONTRACT LITIGATION*, MDL NO. 1914 (D. N.J.)**

Lieff Cabraser represented owners and lessees of Mercedes-Benz cars and SUVs equipped with the Tele-Aid system, an emergency response system which linked subscribers to road-side assistance operators by using a combination of global positioning and cellular technology. In 2002, the Federal Communications Commission issued a rule, effective 2008, eliminating the requirement that wireless phone carriers provide analog-based networks. The Tele-Aid system offered by Mercedes-Benz relied on analog signals. Plaintiffs charged that Mercedes-Benz committed fraud in promoting and selling the Tele-Aid system without disclosing to buyers of certain model years that the Tele-Aid system as installed would become obsolete in 2008.

In an April 2009 published order, the Court certified a nationwide class of all persons or entities in the U.S. who purchased or leased a Mercedes-Benz vehicle equipped

with an analog-only Tele Aid system after August 8, 2002, and (1) subscribed to Tele Aid service until being informed that such service would be discontinued at the end of 2007, or (2) purchased an upgrade to digital equipment.

In September 2011, the Court approved a settlement that provided class members a $650 check or a $750 to $1,300 certificate toward the purchase or lease of new Mercedes-Benz vehicle, depending upon whether or not they paid for an upgrade of the analog Tele Aid system and whether they still owned their vehicle. In approving the settlement, U.S. District Court Judge Dickinson R. Debevoise stated, "I want to thank counsel for the . . . very effective and good work . . . . It was carried out with vigor, integrity and aggressiveness with never going beyond the maxims of the Court."

***CARIDEO V. DELL*, NO. C06-1772 JLR (W.D. WASH.)**

Lieff Cabraser represented consumers who owned Dell Inspiron notebook computer model numbers 1150, 5100, or 5160. The class action lawsuit complaint charged that the notebooks suffered premature failure of their cooling system, power supply system, and/or motherboards. In December 2010, the Court approved a settlement which provided class members that paid Dell for certain repairs to their Inspiron notebook computer a reimbursement of all or a portion of the cost of the repairs.

***GRAYS HARBOR ADVENTIST CHRISTIAN SCHOOL V. CARRIER CORPORATION*, NO. 05-05437 (W.D. WASH.)**

In April 2008, the Court approved a nationwide settlement for current and past owners of high-efficiency furnaces manufactured and sold by Carrier Corporation and equipped with polypropylene-laminated condensing heat exchangers ("CHXs"). Carrier sold the furnaces under the Carrier, Bryant, Day & Night and Payne brand-names. Plaintiffs alleged that starting in 1989, Carrier began manufacturing and selling high efficiency condensing furnaces manufactured with a secondary CHX made of inferior materials. Plaintiffs alleged that as a result, the CHXs, which Carrier warranted and consumers expected to last for 20 years, failed prematurely. The settlement provided an enhanced 20-year warranty of free service and free parts for consumers whose furnaces had not yet failed. The settlement also offered a cash reimbursement for consumers who already paid to repair or replace the CHX in their high-efficiency Carrier furnaces. An estimated three million or more consumers in the U.S. and Canada purchased the furnaces covered under the settlement. Plaintiffs valued the settlement to consumers at over $300 million based upon the combined value of the cash reimbursement and the estimated cost of an enhanced warranty of this nature.

***GROSS V. MOBIL*, NO. C 95-1237-SI (N.D. CAL.)**

Lieff Cabraser served as Plaintiffs' Class Counsel in this nationwide action involving an estimated 2,500 aircraft engine owners whose engines were affected by Mobil AV-1, an allegedly defective aircraft engine oil. Plaintiffs alleged claims for strict liability, negligence, misrepresentation, violation of consumer protection statutes, and for injunctive relief. Plaintiffs obtained a preliminary injunction requiring Mobil Corporation to provide notice to all potential class members of the risks associated with past use of aircraft engine oil. In addition, Plaintiffs negotiated a proposed settlement, granted final approval by the Court in November 1995, valued at over $12.5 million, under which all Class Members were eligible to participate in an engine inspection and repair program, and receive compensation for past repairs and for the loss of use of their aircraft associated with damage caused by Mobil AV-1.

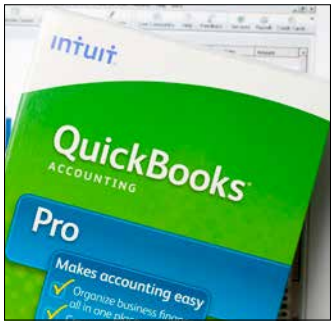
***CARTWRIGHT V. VIKING INDUSTRIES*, NO. 2:07-CV-2159 FCD (E.D. CAL.)**

Lieff Cabraser represented California homeowners in a class action lawsuit alleging that over one million Series 3000 windows produced and distributed by Viking between 1989 and 1999 were defective. The plaintiffs charged that the windows were not watertight and allowed for water to penetrate the surrounding sheetrock, drywall, paint or wallpaper. Under the terms of a settlement approved by the Court in August 2010, all class members who submitted valid claims were entitled to receive as much as $500 per affected property.

***PELLETZ V. ADVANCED ENVIRONMENTAL RECYCLING TECHNOLOGIES* (W.D. WASH.)**

Lieff Cabraser served as Co-Lead Counsel in a case alleging that ChoiceDek decking materials, manufactured by AERT, developed persistent and untreatable mold spotting throughout their surface. In a published opinion in January 2009, the Court approved a settlement that provided affected consumers with free and discounted

deck treatments, mold inhibitor applications, and product replacement and reimbursement.



***CREATE-A-CARD V. INTUIT*, NO. C07-6452 WHA (N.D. CAL.)**

Lieff Cabraser, with co-counsel, represented business users of QuickBooks Pro for accounting that lost their QuickBooks data and other files due to faulty software code sent by Intuit, the producer of QuickBooks. In September 2009, the Court granted final approval to a settlement that provided all class members who filed a valid claim with a free software upgrade and compensation for certain data-recovery costs. Commenting on the settlement and the work of Lieff Cabraser on September 17, 2009, U.S. District Court Judge William H. Alsup stated, "I want to come back to something that I observed in this case firsthand for a long time now. I think you've done an excellent job in the case as class counsel and the class has been well represented having you and your firm in the case."

***LUNDELL V. DELL*, NO. C05-03970 (N.D. CAL.)**

Lieff Cabraser served as Lead Class Counsel for consumers who experienced power problems with the Dell Inspiron 5150 notebook. In December 2006, the Court granted final approval to a settlement of the class action which extended the one-year limited warranty on the notebook for a set of repairs related to the power system. In addition, class members that paid Dell or a third party for repair of the power system of their notebook were entitled to a 100% cash refund from Dell.

***WEEKEND WARRIOR TRAILER CASES*, JCCP NO. 4455 (CAL. SUPR. CT.)**

Lieff Cabraser, with co-counsel, represented owners of Weekend Warrior trailers manufactured between 1998 and 2006 that were equipped with frames manufactured, assembled, or supplied by Zieman Manufacturing Company. The trailers, commonly referred to as "toy haulers," were used to transport outdoor recreational equipment such as motorcycles and all-terrain vehicles. Plaintiffs charged that Weekend Warrior and Zieman knew of design and performance problems with the trailers, including bent frames, detached siding, and warped forward cargo areas, and concealed the defects from consumers. In February 2008, the Court approved a $5.5 million settlement of the action that provided for the repair and/or reimbursement of the trailers. In approving the settlement, California Superior Court Judge Thierry P. Colaw stated that class counsel were "some of the best," and "there was an overwhelming positive reaction to the settlement" among class members.

***MCMANUS V. FLEETWOOD ENTERPRISES, INC.*, NO. SA-99-CA-464-FB (W.D. TEX.)**

Lieff Cabraser served as Class Counsel on behalf of original owners of 1994-2000 model year Fleetwood Class A and Class C motor homes. The lawsuits alleged that Fleetwood misrepresented the towing capabilities of new motor homes it sold, and claimed that Fleetwood should have told buyers that a supplemental braking system was needed to stop safely while towing heavy items, such as a vehicle or trailer. In 2003, the Court approved a settlement that resolved lawsuits pending in Texas and California about braking while towing with 1994 Fleetwood Class A and Class C motor homes. The settlement paid $250 to people who bought a supplemental braking system for Fleetwood motor homes that they bought new. Earlier, the appellate court found that common questions predominated under purchasers' breach of implied warranty of merchantability claim. 320 F.3d 545 (5th Cir. 2003).

***FOOTHILL/DEANZA COMMUNITY COLLEGE DISTRICT V. NORTHWEST PIPE COMPANY*, NO. C-00-20749 (N.D. CAL.)**

Since 1990, Poz-Lok pipes and pipe fittings were sold in the U.S. as part of fire suppression systems for use in residential and commercial buildings. After leaks in Poz-Lok pipes caused damage to its DeAnza Campus Center building, Foothill/DeAnza Community College District in California retained Lieff Cabraser to file a class action lawsuit against the manufacturers of Poz-Lok. The college district charged that Poz-Lok pipe had manufacturing and design defects that resulted in the premature corrosion and failure of the product. In June 2004, the Court approved the creation of a settlement fund of up to $14.5 million for property owners nationwide with Poz-Lok fire sprinkler piping that failed. Under the settlement, owners

whose Poz-Lok pipes were leaking, or leaked over the next 15 years, could file a claim for compensation.

***KAN V. TOSHIBA AMERICAN INFORMATION SYSTEMS*, NO. BC327273 (LOS ANGELES SUPER. CT.)**

Lieff Cabraser served as Co-Lead Counsel for a class of all end-user persons or entities who purchased or otherwise acquired in the United States, for their own use and not for resale, a new Toshiba Satellite Pro 6100 Series notebook. Consumers alleged a series of defects were present in the notebook. In 2006, the Court approved a settlement that extended the warranty for all Satellite Pro 6100 notebooks, provided cash compensation for certain repairs, and reimbursed class members for certain out-of-warranty repair expenses.

TOSHIBA LAPTOP SCREEN FLICKER SETTLEMENT

Lieff Cabraser negotiated a settlement with Toshiba America Information Systems, Inc. ("TAIS") to provide relief for owners of certain Toshiba Satellite 1800 Series, Satellite Pro 4600 and Tecra 8100 personal notebook computers whose screens flickered, dimmed or went blank due to an issue with the FL Inverter Board component. In 2004 under the terms of the settlement, owners of affected computers who paid to have the FL Inverter issue repaired by either TAIS or an authorized TAIS service provider recovered the cost of that repair, up to $300 for the Satellite 1800 Series and the Satellite Pro 4600 personal computers, and $400 for the Tecra 8100 personal computers. TAIS also agreed to extend the affected computers' warranties for the FL Inverter issue by eighteen months.

***RICHISON V. AMERICAN CEMWOOD CORP.*, NO. 005532 (SAN JOAQUIN SUPR. CT., CAL.)**

Lieff Cabraser served as Co-Lead Class Counsel for an estimated nationwide class of 30,000 owners of homes and other structures on which defective Cemwood Shakes were installed. In November 2003, the Court granted final approval to a $75 million Phase 2 settlement in the American Cemwood roofing shakes national class action litigation. This amount was in addition to a $65 million partial settlement approved by the Court in May 2000, and brought the litigation to a conclusion.

***ABS PIPE LITIGATION*, JCCP NO. 3126 (CONTRA COSTA COUNTY SUPR. CT., CAL.)**

Lieff Cabraser served as Lead Class Counsel on behalf of property owners whose ABS plumbing pipe was allegedly defective and caused property damage by leaking. Six separate class actions were filed in California against five different ABS pipe manufacturers, numerous developers of homes containing the ABS pipe, as well as the resin supplier and the entity charged with ensuring the integrity of the product. Between 1998 and 2001, Lieff Cabraser achieved 12 separate settlements in the class actions and related individual lawsuits for approximately $78 million.

Commenting on the work of Lieff Cabraser and co-counsel in the case, California Superior Court (now Appellate) Judge Mark B. Simons stated on May 14, 1998: "The attorneys who were involved in the resolution of the case certainly entered the case with impressive reputations and did nothing in the course of their work on this case to diminish these reputations, but underlined, in my opinion, how well deserved those reputations are."

***HANLON V. CHRYSLER CORP.*, NO. C-95-2010-CAL (N.D. CAL.)**

In 1995, the District Court approved a $200+ million settlement enforcing Chrysler's comprehensive minivan rear latch replacement program, and to correct alleged safety problems with Chrysler's pre-1995 designs. As part of the settlement, Chrysler agreed to replace the rear latches with redesigned latches. The settlement was affirmed on appeal by the Ninth Circuit in *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (1998).

***IN RE GENERAL MOTORS CORP. PICK-UP FUEL TANK PRODUCTS LIABILITY LITIGATION*, MDL NO. 961 (E.D. PA.)**

Lieff Cabraser served as Court-appointed Co-Lead Counsel representing a class of 4.7 million plaintiffs who owned 1973-1987 GM C/K pickup trucks with allegedly defective gas tanks. The Consolidated Complaint asserted claims under the Lanham Act, the Magnuson-Moss

Act, state consumer protection statutes, and common law. In 1995, the Third Circuit vacated the District Court settlement approval order and remanded the matter to the District Court for further proceedings. In July 1996, a new nationwide class action was certified for purposes of an enhanced settlement program valued at a minimum of $600 million, plus funding for independent fuel system safety research projects. The Court granted final approval to the settlement in November 1996.

***IN RE LOUISIANA-PACIFIC INNER-SEAL SIDING LITIGATION*, NO. C-95-879-JO (D. OR.)**

Lieff Cabraser served as Co-Lead Class Counsel on behalf of a nationwide class of homeowners with defective exterior siding on their homes. Plaintiffs asserted claims for breach of warranty, fraud, negligence, and violation of consumer protection statutes. In 1996, U.S. District Judge Robert E. Jones entered an Order, Final Judgment and Decree granting final approval to a nationwide settlement requiring Louisiana-Pacific to provide funding up to $475 million to pay for inspection of homes and repair and replacement of failing siding over the next seven years.

***COX V. SHELL*, NO. 18,844 (OBION COUNTY CHANCERY CT., TENN.**

Lieff Cabraser served as Class Counsel on behalf of a nationwide class of approximately 6 million owners of property equipped with defective polybutylene plumbing systems and yard service lines. In November 1995, the Court approved a settlement involving an initial commitment by defendants of $950 million in compensation for past and future expenses incurred as a result of pipe leaks, and to provide replacement pipes to eligible claimants. The deadline for filing claims expired in 2009.

***WILLIAMS V. WEYERHAEUSER*, NO. 995787 (SAN FRANCISCO SUPR. CT.)**

Lieff Cabraser served as Class Counsel on behalf of a nationwide class of hundreds of thousands of owners of homes and other structures with defective Weyerhaeuser hardboard siding. A California-wide class was certified for all purposes in February 1999, and withstood writ review by both the California Court of Appeals and Supreme Court of California. In 2000, the Court granted final approval to a nationwide settlement of the case which provided class members with compensation for their damaged siding, based on the cost of replacing or, in some instances, repairing damaged siding. The settlement had no cap, and required Weyerhaeuser to pay all timely, qualified claims over a nine year period.

***NAEF V. MASONITE*, NO. CV-94-4033 (MOBILE COUNTY CIRCUIT CT., ALA.)**

Lieff Cabraser served as Co-Lead Class Counsel on behalf of a nationwide Class of an estimated 4 million homeowners with allegedly defective hardboard siding manufactured and sold by Masonite Corporation, a subsidiary of International Paper, installed on their homes. The Court certified the class in November 1995, and the Alabama Supreme Court twice denied extraordinary writs seeking to decertify the Class, including in *Ex Parte Masonite*, 681 So. 2d 1068 (Ala. 1996). A month-long jury trial in 1996 established the factual predicate that Masonite hardboard siding was defective under the laws of most states. The case settled on the eve of a second class-wide trial, and in 1998, the Court approved a settlement.

Under a claims program established by the settlement that ran through 2008, class members with failing Masonite hardboard siding installed and incorporated in their property between January 1, 1980 and January 15, 1998 were entitled to make claims, have their homes evaluated by independent inspectors, and receive cash payments for damaged siding. Combined with settlements involving other alleged defective home building products sold by Masonite, the total cash paid to homeowners exceeded $1 billion.

***IN RE INTEL PENTIUM PROCESSOR LITIGATION*, NO. CV 745729 (SANTA CLARA SUPR. CT., CAL.)**

Lieff Cabraser served as one of two Court-appointed Co-Lead Class Counsel in this action alleging defects in certain Intel Pentium CPUs, and negotiated a settlement, approved by the Court in June 1995, involving both injunctive relief and damages having an economic value of approximately $1 billion.

EMPLOYMENT DISCRIMINATION & UNFAIR EMPLOYMENT PRACTICES

Lieff Cabraser's nationally-recognized employment lawyers litigate many of the most significant employment class action lawsuits in the U.S. today, cases challenging companies paying women less for the same work as men; gender and race discrimination and retaliation; policies that deprive employees and "independent contractors" of theirs wages, overtime payments, meal and rest breaks, or reimbursement for business expenses; and pension plan abuse claims on behalf of employees and retirees.

We have repeatedly prevailed in and obtained record-setting recoveries for our clients in precedent-setting cases against the largest corporations in the U.S. and throughout the world, including Goldman Sachs, Walmart, Google, IBM, Apple, Federal Express, Smith Barney, and Home Depot.

Representative Current Cases

LABOR TRAFFICKING WAGE THEFT CASE FOR COLOMBIAN HOUSEKEEPERS

Lieff Cabraser, with co-counsel, brought an action in federal court in the Eastern District of Virginia involving the transportation of over 200 Colombian nationals or people of Colombian origin to work as housekeepers at MasterCorp-serviced hotel and resort properties across the country. The housekeepers (who were nominally employed by Perennial Pete General Services LLC and related entities) worked up to 12–15 hours per day for four-month periods without overtime wages; had unlawful deductions taken from their wages; were housed in crowded motel rooms; and were threatened with immigration-related harm if they complained or quit. The Court is considering a proposed settlement.

VASSAR COLLEGE GENDER DISCRIMINATION

Along with co-counsel Equal Rights Advocates, Lieff Cabraser filed a class action lawsuit in August 2023 on behalf of female full professors of Vassar College alleging gender discrimination and equal pay violations. The case is pending in the U.S. District Court for the Southern District of New York, and alleges pervasive and long-standing gender-based pay disparities between Vassar's male and female full professors, and has garnered substantial support within the Vassar community. Since it was filed in August 2023, 36 additional female full professors at Vassar have written jointly and publicly to say they share the class representatives' grievances about Vassar's pattern of pay discrimination, and another group of 29 male full professors at Vassar have written publicly to "voice strong support" for the class representatives and the lawsuit. Students have also protested. Discovery has now begun, as Vassar raises modest procedural challenges to various pieces of the complaint.

***BROWN V. DOORDASH, INC.,* NO. 21-1828 (CAL. SUPR. CT.)**

Lieff Cabraser represents gig economy workers in a series of lawsuits alleging that the companies' practice of classifying them as independent contractors rather than employees violates California's Private Attorneys General Act (PAGA).

In October 2021, Lieff Cabraser filed a case against DoorDash, Inc. under PAGA. The case alleges that DoorDash has violated multiple provisions of the California Labor Code by classifying its "dashers" as independent contractors and denying them wages, overtime pay, sick leave, off-duty meal and rest breaks, and compensation for their required business expenses.

SPACEX RETALIATORY FIRINGS

On November 16, 2022, Lieff Cabraser and co-counsel filed unfair labor practice charges on behalf of eight former SpaceX employees against the company. The charges allege that SpaceX violated the National Labor Relations Act by terminating the employees for engaging in protected concerted activity.

The employees were allegedly fired for being part of a larger group that drafted a letter to SpaceX's executive team expressing concern about recent allegations of sexual harassment by SpaceX's CEO, and his harmful behavior on Twitter that hurt the company's reputation and also the company culture. The letter called on SpaceX to take appropriate remedial action including condemning the CEO's harmful Twitter behavior, holding leadership accountable, and seeking uniform definition and enforcement of SpaceX's policies.

Approximately one year after Lieff Cabraser filed, the National Labor Relations Board ("NLRB") concluded its investigation and issued a complaint against the company alleging 37 separate violations of Section 8(a)(1) of the National Labor Relations Act: 11 for coercive statements, 2 for coercive statements/implied threats, 7 for interrogation, 4 for unlawful instructions, 3 for impression of surveillance, and 10 for retaliation for involvement in protected concerted activity. Trial is set to for 2024.

***IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION,* MDL 3035 (W.D.TENN.)**

Lieff Cabraser has been appointed to the Plaintiffs Steering Committee in a multidistrict litigation on behalf of clergy and other employees of the African Methodist Episcopal Church who had almost $90 million of their retirement funds misappropriated.

The litigation has been centralized in the Western District of Tennessee and it includes as defendants church officials, the church's investment advisors, and others. In March 2023, the case was consolidated into multidistrict litigation before Judge S. Thomas Anderson of the U.S. District Court for the Western District of Tennessee, who largely denied motions to dismiss from the church's investment advisors. The case is presently in discovery and a consolidated complaint was filed in late August 2022.

EMPLOYMENT DISCRIMINATION & UNFAIR EMPLOYMENT PRACTICES

Representative Achievements & Successes

***CHEN-OSTER V. GOLDMAN SACHS,* NO. 10-6950 (S.D.N.Y.)**

Lieff Cabraser served as Co-Lead Counsel for plaintiffs in a gender discrimination class action lawsuit against Goldman Sachs alleging Goldman Sachs engaged in systemic and pervasive discrimination against its female professional employees in violation of Title VII of the Civil Rights Act of 1964 and New York City Human Rights Law. The complaint charged that, among other things, Goldman Sachs paid its female professionals less than similarly situated males, disproportionately promoted men over equally or more qualified women, and offered better business opportunities and professional support to its male professionals. In 2012, the Court denied defendant's motion to strike class allegations.

On March 10, 2015, Magistrate Judge James C. Francis IV issued a recommendation against certifying the class. In April of 2017, District Court Judge Analisa Torres granted plaintiffs' motion to amend their complaint and add new representative plaintiffs, denied Goldman Sachs' motions to

dismiss the new plaintiffs' claims, and ordered the parties to submit proposals by April 26, 2017, on a process for addressing Magistrate Judge Francis' March 2015 Report and Recommendation on class certification.

On March 30, 2018, Judge Torres issued an order certifying the plaintiffs' damages class under Federal Rule of Civil Procedure Rule 23(b)(3). Judge Torres certified plaintiffs' claims for both disparate impact and disparate treatment discrimination, relying on statistical evidence of discrimination in pay, promotions, and performance evaluations, as well as anecdotal evidence of Goldman's hostile work environment. In so ruling, the court also granted plaintiffs' motion to exclude portions of Goldman's expert evidence as unreliable, and denied all of Goldman's motions to exclude plaintiffs' expert evidence.

After certification and completion of notice, Goldman attempted to remove over half of the 3,220+ class members to arbitration. Plaintiffs objected, filing for sanctions against Goldman for violations of FRCP 23(d). In 2020, the Magistrate Judge assigned to the case issued a recommendation agreeing with plaintiffs that Goldman Sachs disseminated misleading communications leading to some class members opting out of arbitration. The case proceeded toward trial on whether Goldman violated federal and NY law by engaging in gender discrimination against the Class.

On May 15, 2023, on the eve of trial, the court granted preliminary approval to a $215 million class settlement. This is an historic settlement for many reasons: It is one of the largest discrimination settlements in U.S. history; it is also the single largest gender bias settlement that has occurred in advance of employees winning their case at trial, and the third-largest gender bias settlement of any kind on record (the larger ones coming years after the employees won at trial). It is nearly five times larger than the next-largest gender bias class action settlement involving a Wall Street firm. In addition, the settlement represents approximately 78% of potential damages in the case, and 50% of all potential class damages. We are unaware of another gender class settlement before trial that had a higher recovery of potential exposure.

***STRAUCH V. COMPUTER SCIENCES CORPORATION,* NO. 2:14-CV-00956 (D. CONN.)**

In 2005, Computer Sciences Corporation ("CSC") settled for $24 million a nationwide class and collective action lawsuit alleging that CSC misclassified thousands of its information technology support workers as exempt from overtime pay in violation of in violation of the federal Fair Labor Standards Act ("FLSA") and state law.

Notwithstanding that settlement, a complaint filed on behalf of current and former CSC IT workers in 2014 by Lieff Cabraser and co-counsel alleged that CSC misclassified CSC System Administrators as exempt even though they performed primarily nonexempt work.

On June 9, 2015, the Court granted plaintiffs' motion for conditional certification of a FLSA collective action. Thereafter, more than 1,000 System Administrators opted into the case. On June 30, 2017, the Court granted plaintiffs' motion for certification of Rule 23 classes for System Administrators in California and Connecticut.

On December 20, 2017, a federal court jury in Connecticut ruled that CSC wrongly and willfully denied overtime pay to approximately 1,000 current and former technology support workers around the country. After deliberating over two days, the Connecticut jury unanimously rejected CSC's claim that its System Administrators in the "Associate Professional" and "Professional" job titles were exempt under federal, Connecticut and California law, ruling instead that the workers should have been classified as nonexempt and paid overtime. The jury found CSC's violations to be willful, triggering additional damages. The misclassifications were made despite the fact that, in 2005, CSC paid $24 million to settle similar claims from a previous group of technical support workers. Following judgment and an appeal to the Second Circuit Court of Appeals, the parties reached a settlement for a total payment of $17,600,000.

***SENNE V. MAJOR LEAGUE BASEBALL*, NO. 14-CV-00608 (N.D. CAL.)**

Lieff Cabraser represented current and former Minor League Baseball players employed under uniform player contracts in a class and collective action seeking unpaid overtime and minimum wages under the Fair Labor Standards Act and state laws. The complaint alleged that Major League Baseball ("MLB"), the MLB franchises, and other defendants

paid minor league players a uniform monthly fixed salary that, in light of the hours worked, amounted to less than the minimum wage and an unlawful denial of overtime pay. In August 2019, the Ninth Circuit Court of Appeals upheld certification of a California Class, overturned the denial of certification of the Arizona and Florida Classes, and affirmed the certification of an FLSA collective action. In July 2022, the defendants agreed to pay a total of $185 million to settle the case.

***SHELBY STEWART ET AL., VS KAISER FOUNDATION HEALTH PLAN INC. ET AL.*, NO. 21-590966 (SAN FRANCISCO SUP. CT.)**

Lieff Cabraser and co-counsel filed a race discrimination class action against Kaiser Foundation Health Plan, Kaiser Foundation Hospitals, The Permanente Medical Group, and the SoCal Permanente Medical Group on behalf of more than 2,200 African American employees at each of the Kaiser Permanente entities. After two years of negotiation, the parties settled in April 2021 for $11.5 million; Kaiser also agreed to institute comprehensive workplace programs to ensure that African-American employees' compensation and opportunities for advancement are fair and equitable. The settlement received final approval in March 2022.

***NYONG'O V. SUTTER HEALTH, ET AL.*, 3:21-CV-06238 (SF SUP. CT.)**

Lieff Cabraser represented Dr. Omondi Nyong'o in a race discrimination lawsuit against Sutter Health for multiple violations of California law arising from a racially toxic workplace. The complaint alleged that nationally-recognized Dr. Nyong'o was subject to a pattern of racial discrimination, including pay and promotion discrimination, down-leveling, and biased reviews. In 2023, the parties reached a private settlement.

***KALODIMOS V. MEREDITH CORPORATION D/B/A WSMV CHANNEL 4*, NO. 3:18-CV-01321 (M.D. TENN.)**

Lieff Cabraser represented Demetria Kalodimos, the longest running anchor in the history of Middle Tennessee's Channel 4 news network, in sex and age discrimination claims against the network. Ms. Kalodimos was known within the community as the "face of Channel 4," and had received both local and national accolades for journalistic excellence when she was terminated in 2017. On behalf of Ms. Kalodimos, Lieff Cabraser litigated claims for violation of Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Tennessee Human Rights Act, and the common law. The parties resolved these disputes in 2019 following a private mediation.

***BUTLER V. HOME DEPOT*, NO. C94- 4335 SI (N.D. CAL.)**

Lieff Cabraser and co-counsel represented a class of approximately 25,000 female employees and applicants for employment with Home Depot's West Coast Division who alleged gender discrimination in connection with hiring, promotions, pay, job assignment, and other terms and conditions of employment. The class was certified in January 1995. In January 1998, the Court approved a $87.5 million settlement of the action that included comprehensive injunctive relief over the term of a five-year Consent Decree. Under the terms of the settlement, Home Depot modified its hiring, promotion, and compensation practices to ensure that interested and qualified women were hired for, and promoted to, sales and management positions.

On January 14, 1998, U.S. District Judge Susan Illston commented that the settlement provided "a very significant monetary payment to the class members for which I think they should be grateful to their counsel. Even more significant is the injunctive relief that's provided for…" By 2003, the injunctive relief had created thousands of new job opportunities in sales and management positions at Home Depot, generating the equivalent of more than $100 million per year in wages for female employees.

***GILES V. ALLSTATE*, JCCP NOS. 2984 AND 2985**

Lieff Cabraser represented a class of Allstate insurance agents seeking reimbursement of wrongly denied out-of-pocket costs. The action settled for approximately $40 million.

GOOGLE GENDER PAY BIAS LAWSUIT

In October 2022, a California Superior Court judge granted final approval to a $118 million settlement of litigation brought on behalf of over 15,000 female Google workers

who alleged the tech giant engaged in systemic and pervasive pay and promotion discrimination since 2013 against its female software engineers. Filed by Lieff Cabraser and co-counsel in 2017 under California's then-newly-amended Equal Pay law, the Google Gender Discrimination class action broke new ground in tech employment law as it addressed two pernicious and long-standing practices, the under-leveling of women relative to comparable men at hire, and using candidates' past salary information to determine their pay rate, the latter a process that perpetuated inequity as women on average have historically been paid significantly less than men.

***ROSENBURG V. IBM*, NO. C 06-0430 PJH (N.D. CAL.)**

Plaintiffs alleged that IBM illegally misclassified its employees who install or maintain computer hardware or software as "exempt" from the overtime pay requirements of federal and state labor laws. In July 2007, the Court granted final approval to a $65 million settlement of a class action suit by current and former technical support workers for IBM seeking unpaid overtime. The settlement constituted a record amount in litigation seeking overtime compensation for employees in the computer industry.

***SATCHELL V. FEDEX EXPRESS*, NO. C 03-2659 SI, C 03-2878 SI (N.D. CAL.)**

In 2007, the Court granted final approval to a $54.9 million settlement of race discrimination class action lawsuit by African American and Latino employees of FedEx Express. The settlement required FedEx to reform its promotion, discipline, and pay practices. Under the settlement, FedEx implemented multiple steps to promote equal employment opportunities, including making its performance evaluation process less discretionary, discarding use of the "Basic Skills Test" as a prerequisite to promotion into certain desirable positions, and changing employment policies to demonstrate that its revised practices do not continue to foster racial discrimination. The settlement, covering 20,000 hourly employees and operations managers who worked in the western region of FedEx Express since October 1999, was approved by the Court in August 2007.

***GONZALEZ V. ABERCROMBIE & FITCH STORES*, NO. C03-2817 SI (N.D. CAL.)**

In April 2005, the Court approved a settlement, valued at approximately $50 million, which required retail clothing giant Abercrombie & Fitch to provide monetary benefits of $40 million to the class of Latino, African American, Asian American and female applicants and employees who charged the company with discrimination. The settlement included a six-year period of injunctive relief requiring the company to institute a wide range of policies and programs to promote diversity among its workforce and to prevent discrimination based on race or gender. Lieff Cabraser served as Lead Class Counsel and prosecuted the case with a number of co-counsel firms, including the Mexican American Legal Defense and Education Fund, the Asian Pacific American Legal Center, and the NAACP Legal Defense and Educational Fund, Inc.

***CALIBUSO V. BANK OF AMERICA CORPORATION, MERRILL LYNCH & CO.*, NO. CV10-1413 (E.D. N.Y.)**

Lieff Cabraser served as Co-Lead Counsel for female Financial Advisors who alleged that Bank of America and Merrill Lynch engaged in a pattern and practice of gender discrimination with respect to business opportunities and compensation. The complaint charged that these violations were systemic, based upon company-wide policies and practices.

In December 2013, the Court approved a $39 million settlement. The settlement included three years of programmatic relief, overseen by an independent monitor, regarding teaming and partnership agreements, business generation, account distributions, manager evaluations, promotions, training, and complaint processing and procedures. An independent consultant also conducted an internal study of the bank's Financial Advisors' teaming practices.

***FRANK V. UNITED AIRLINES*, NO. C-92-0692 MJJ (N.D. CAL.)**

Lieff Cabraser and co-counsel obtained a $36.5 million settlement in February 2004 for a class of female flight attendants who were required to weigh less than comparable male flight attendants. Former U.S. District Court Judge Charles B. Renfrew (ret.), who served as a mediator in the case, stated, "As a participant in the settlement negotiations, I am familiar with and know the reputation, experience and skills of lawyers involved. They are dedicated, hardworking and able counsel who have represented their clients very effectively." U.S. District Judge Martin J. Jenkins, in granting final approval to the settlement, found "that the results achieved here could be nothing less than described as exceptional," and that the settlement "was obtained through the efforts of outstanding counsel."

***BARNETT V. WAL-MART*, NO. 01-2- 24553-SNKT (WASH.)**

The Court approved in July 2009 a settlement valued at up to $35 million on behalf of workers in Washington State who alleged they were deprived of meal and rest breaks and forced to work off-the-clock at Wal-Mart stores and Sam's Clubs. In addition to monetary relief, the settlement provided injunctive relief benefiting all employees.

Wal-Mart was required to undertake measures to prevent wage and hour violations at its 50 stores and clubs in Washington, measures that included the use of new technologies and compliance tools.

Plaintiffs filed their complaint in 2001. Three years later, the Court certified a class of approximately 40,000 current and former Wal-Mart employees. The eight years of litigation were intense and adversarial. Wal-Mart, then the world's third largest corporation, vigorously denied liability and spared no expense in defending itself. This lawsuit and similar actions filed against Wal-Mart across America served to reform the pay procedures and employment practices for Wal-Mart's 1.4 million employees nationwide. In a press release announcing the Court's approval of the settlement, Wal-Mart spokesperson Daphne Moore stated, "This lawsuit was filed years ago and the allegations are not representative of the company we are today." Lieff Cabraser served as Court-appointed Co-Lead Class Counsel.

***VEDACHALAM V. TATA CONSULTANCY SERVICES*, C 06-0963 CW (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Counsel for 12,700 foreign nationals sent by the Indian conglomerate Tata to work in the U.S. The complaint charged that Tata breached the contracts of its non-U.S.-citizen employees by requiring them to sign over their federal and state tax refund checks to Tata, and by failing to pay its non- U.S.-citizen employees the monies promised to those employees before they came to the United States.

In 2007 and again in 2008, the District Court denied Tata's motions to compel arbitration of Plaintiffs' claims in India. The Court held that no arbitration agreement existed because the documents purportedly requiring arbitration in India applied one set of rules to the Plaintiffs and another set to Tata. In 2009, the Ninth Circuit Court of Appeals affirmed this decision. In July 2011, the District Court denied in part Tata's motion for summary judgment, allowing Plaintiffs' legal claims for breach of contract and certain violations of California wage laws to go forward.

In 2012, the District Court found that the plaintiffs satisfied the legal requirements for a class action and certified two classes.

After 7 years of hard-fought litigation, the District Court in July 2013 granted final approval to a $29.75 million settlement.

***AMOCHAEV. V. CITIGROUP GLOBAL MARKETS, D/B/A SMITH BARNEY*, NO. C 05-1298 PJH (N.D. CAL.)**

In August 2008, the Court approved a $33 million settlement for the 2,411 members of the Settlement Class in a gender discrimination case against Smith Barney. Lieff Cabraser represented Female Financial Advisors who charged that Smith Barney, the retail brokerage unit of Citigroup, discriminated against them in account distributions, business leads, referral business, partnership opportunities, and other terms of employment. In addition to the monetary

compensation, the settlement included comprehensive injunctive relief for four years designed to increase business opportunities and promote equality in compensation for female brokers.

***GIANNETTO V. COMPUTER SCIENCES CORPORATION*, NO. 03-CV-8201 (C.D. CAL.)**

Plaintiffs charged that the global conglomerate had a common practice of refusing to pay overtime compensation to its technical support workers involved in the installation and maintenance of computer hardware and software in violation of the Fair Labor Standards Act, California's Unfair Competition Law, and the wage and hour laws of 13 states. In one of the largest overtime pay dispute settlements ever in the information technology industry, the Court approved a $24 million settlement with Computer Sciences Corporation in 2005.

***BUTTRAM V. UPS*, NO. C-97-01590 MJJ (N.D. CAL.)**

Lieff Cabraser and several co-counsel represented a class of approximately 14,000 African- American part-time hourly employees of UPS's Pacific and Northwest Regions alleging race discrimination in promotions and job advancement. In 1999, the Court approved a $12.14 million settlement of the action. Under the injunctive relief portion of the settlement, Class Counsel monitored the promotions of African-American part-time hourly employees to part-time supervisor and full-time package car drivers.

***CURTIS-BAUER V. MORGAN STANLEY & CO.*, NO. C-06- 3903 (TEH)**

In October 2008, the Court approved a $16 million settlement in the class action against Morgan Stanley. The complaint charged that Morgan Stanley discriminated against African-American and Latino Financial Advisors and Registered Financial Advisor Trainees in the Global Wealth Management Group of Morgan Stanley in compensation and business opportunities. The settlement included comprehensive injunctive relief regarding account distributions, partnership arrangements, branch manager promotions, hiring, retention, diversity training, and complaint processing. The settlement also provided for the appointment of an independent Diversity Monitor and an independent Industrial Psychologist to effectuate the terms of the agreement.

***CHURCH V. CONSOLIDATED FREIGHTWAYS*, NO. C90-2290 DLJ (N.D. CAL.)**

Lieff Cabraser was the Lead Court-appointed Class Counsel in this class action on behalf of the exempt employees of Emery Air Freight, a freight forwarding company acquired by Consolidated Freightways in 1989. On behalf of the employee class, Lieff Cabraser prosecuted claims for violation of the Employee Retirement Income Security Act, the securities laws, and the Age Discrimination in Employment Act. The case settled in 1993 for $13.5 million.

***GODDARD, ET AL. V. LONGS DRUG STORES CORPORATION, ET AL.*, NO. RG04141291 (CAL. SUPR. CT.)**

Store managers and assistant store managers of Longs Drugs charged that the company misclassified them as exempt from overtime wages. Managers regularly worked in excess of 8 hours per day and 40 hours per week without compensation for their overtime hours. Following mediation, in 2005, Longs Drugs agreed to settle the claims for a total of $11 million. Over 1,000 current and former Longs Drugs managers and assistant managers were eligible for compensation under the settlement, and over 98% of the class submitted claims.

***GERLACH V. WELLS FARGO & CO.*, NO. C 05-0585 CW (N.D. CAL.)**

In January 2007, the Court granted final approval to a $12.8 million settlement of a class action suit by current and former business systems employees of Wells Fargo seeking unpaid overtime. Plaintiffs alleged that Wells Fargo illegally misclassified those employees, who maintained and updated Wells Fargo's business tools according to others' instructions, as "exempt" from the overtime pay requirements of federal and state labor laws.

***BUCCELLATO V. AT&T OPERATIONS*, NO. C10-00463-LHK (N.D. CAL.)**

Lieff Cabraser represented a group of current and former AT&T technical support workers who alleged that AT&T misclassified them as exempt and failed to pay them for all overtime hours worked, in violation of federal and state overtime pay laws. In June 2011, the Court approved a $12.5 million collective and class action settlement.

***GOTTLIEB V. SBC COMMUNICATIONS*, NO. CV-00- 04139 AHM (MANX) (C.D. CAL.)**

With co-counsel, Lieff Cabraser represented current and former employees of SBC and Pacific Telesis Group ("PTG") who participated in AirTouch Stock Funds, which were at one time part of PTG's salaried and non-salaried savings plans. After acquiring PTG, SBC sold AirTouch, which PTG had owned, and caused the AirTouch Stock Funds that were included in the PTG employees' savings plans to be liquidated. Plaintiffs alleged that in eliminating the AirTouch Stock Funds, and in allegedly failing to adequately communicate with employees about the liquidation, SBC breached its duties to 401k plan participants under the Employee Retirement Income Security Act. In 2002, the Court granted final approval to a $10 million settlement.

***ELLIS V. COSTCO WHOLESALE CORP.*, NO. 04-03341-EMC (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Counsel for current and former female employees who charged that Costco discriminated against women in promotion to management positions. In January 2007, the Court certified a class consisting of over 750 current and former female Costco employees nationwide who were denied promotion to General Manager or Assistant Manager since January 3, 2002. Costco appealed.

In September 2011, the U.S. Court of Appeals for the Ninth Circuit remanded the case to the District Court to make class certification findings consistent with the U.S. Supreme Court's ruling in *Wal-Mart v. Dukes*, 131 S. Ct. 2541 (2011). In September 2012, U.S. District Court Judge Edward M. Chen granted plaintiffs' motion for class certification and certified two classes of over 1,250 current and former female Costco employees, one for injunctive relief and the other for monetary relief. On May 27, 2014, the Court approved an $8 million settlement.

***TROTTER V. PERDUE FARMS*, NO. C 99-893-RRM (JJF) (MPT) (D. DEL.)**

Lieff Cabraser represented a class of chicken processing employees of Perdue Farms, Inc., one of the nation's largest poultry processors, for wage and hour violations. The suit challenged Perdue's failure to compensate its assembly line employees for putting on, taking off, and cleaning protective and sanitary equipment in violation of the Fair Labor Standards Act, various state wage and hour laws, and the Employee Retirement Income Security Act. Under a settlement approved by the Court in 2002, Perdue paid $10 million for wages lost by its chicken processing employees as well as attorneys' fees and costs. The settlement was in addition to a $10 million settlement of a suit brought by the Department of Labor in the wake of Lieff Cabraser's lawsuit.

***ZUCKMAN V. ALLIED GROUP*, NO. 02-5800 SI (N.D. CAL.)**

Plaintiffs, claims representatives of Allied / Nationwide, alleged that the company misclassified them as exempt employees and failed to pay them and other claims representatives in California overtime wages for hours they worked in excess of eight hours or forty hours per week. In September 2004, the Court approved a settlement with Allied Group and Nationwide Mutual Insurance Company of $8 million plus Allied/Nationwide's share of payroll taxes on amounts treated as wages, providing plaintiffs a 100% recovery on their claims.

In approving the settlement, U.S. District Court Judge Susan Illston commended counsel for their "really good lawyering" and stated that they did "a splendid job on this" case.

***THOMAS V. CALIFORNIA STATE AUTOMOBILE ASSOCIATION*, NO. CH217752 (CAL. SUPR. CT.)**

With co-counsel, Lieff Cabraser represented 1,200 current

and former field claims adjusters who worked for the California State Automobile Association ("CSAA"). Plaintiffs alleged that CSAA improperly classified their employees as exempt, therefore denying them overtime pay for overtime worked. In May 2002, the Court approved an $8 million settlement of the case.

***IN RE FARMERS INSURANCE EXCHANGE CLAIMS REPRESENTATIVES' OVERTIME PAY LITIGATION*, MDL NO. 1439 (D. OR.)**

Lieff Cabraser and co-counsel represented claims representatives of Farmers' Insurance Exchange seeking unpaid overtime. Lieff Cabraser won a liability phase trial on a classwide basis, and then litigated damages on an individual basis before a Special Master. The judgment was partially upheld on appeal. In August 2010, the Court approved an $8 million settlement.

***ZABOROWSKI V. MHN GOVERNMENT SERVICES*, NO. 12-CV-05109-SI (N.D. CAL.)**

Lieff Cabraser represented current and former Military and Family Life Consultants ("MFLCs") in a class action lawsuit against MHN Government Services, Inc. ("MHN") and Managed Health Network, Inc., seeking overtime pay under the federal Fair Labor Standards Act and state laws. The complaint charged that MHN misclassified the MFLCs as independent contractors and as "exempt" from overtime and failed to pay them overtime pay for hours worked over 40 per week. In April 2013, the Court denied MHN's motion to compel arbitration and granted plaintiff's motion for conditional certification of a FLSA collective action. In December 2014, the U.S. Court of Appeals for the Ninth Circuit upheld the district court's determination that the arbitration clause in MHN's employee contract was procedurally and substantively unconscionable. MHN appealed to the United States Supreme Court. MHN did not contest that its agreement had several unconscionable components; instead, it asked the Supreme Court to sever the unconscionable terms of its arbitration agreement and nonetheless send the MFLCs' claims to arbitration. The Supreme Court granted MHN's petition for certiorari on October 1, 2015, and was scheduled to hear the case in the 2016 spring term in *MHN Gov't Servs., Inc. v. Zaborowski*, No. 14-1458. While the matter was pending before the Supreme Court, an arbitrator approved a class settlement in the matter, which resulted in payment of $7,433,109.19 to class members.

***HIGAZI V. CADENCE DESIGN SYSTEMS*, NO. C 07-2813 JW (N.D. CAL.)**

Plaintiffs alleged that Cadence illegally misclassified its employees who install, maintain, or support computer hardware or software as "exempt" from the overtime pay requirements of federal and state labor laws. In July 2008, the Court granted final approval to a $7.664 million settlement of a class action suit by current and former technical support workers for Cadence seeking unpaid overtime.

***KAHN V. DENNY'S*, NO. BC177254 (CAL. SUPR. CT.)**

Lieff Cabraser brought a lawsuit alleging that Denny's failed to pay overtime wages to its General Managers and Managers who worked at company-owned restaurants in California. The Court approved a $4 million settlement of the case in 2000.

***SANDOVAL V. MOUNTAIN CENTER, INC., ET AL.*, NO. 03CC00280 (CAL. SUPR. CT.)**

Cable installers in California charged that defendants owed them overtime wages, as well as damages for missed meal and rest breaks and reimbursement for expenses incurred on the job. In 2005, the Court approved a $7.2 million settlement of the litigation, which was distributed to the cable installers who submitted claims.

***LEWIS V. WELLS FARGO*, NO. 08-CV- 2670 CW (N.D. CAL.)**

Lieff Cabraser served as Lead Counsel on behalf of approximately 330 I/T workers who alleged that Wells Fargo had a common practice of misclassifying them as exempt and failing to pay them for all overtime hours worked, in violation of federal and state overtime pay laws. In April 2011, the Court granted collective action certification of the FLSA claims and approved a $6.72 million settlement of the action.

***WYNNE V. MCCORMICK & SCHMICK'S SEAFOOD RESTAURANTS*, NO. C 06-3153 CW (N.D. CAL.)**

In August 2008, the Court granted final approval to a settlement valued at $2.1 million, including substantial injunctive relief, for a class of African-American restaurant-level hourly employees. The consent decree created hiring benchmarks to increase the number of African Americans employed in front of the house jobs (e.g., server, bartender, host/hostess, waiter/waitress, and cocktail server), a registration of interest program to minimize discrimination in promotions, improved complaint procedures, and monitoring and enforcement mechanisms.

***MARTIN V. BOHEMIAN CLUB*, NO. SCV-258731 (CAL. SUPR. CT.)**

Lieff Cabraser and co-counsel represented a class of approximately 659 individuals who worked seasonally as camp valets for the Bohemian Club. Plaintiffs alleged that they had been misclassified as independent contractors, and thus were not paid for overtime or meal-and-rest breaks as required under California law. The Court granted final approval of a $7 million settlement resolving all claims in September 2016.

***HOLLOWAY V. BEST BUY*, NO. C05- 5056 PJH (N.D. CAL.)**

Lieff Cabraser, with co-counsel, represented a class of current employees of Best Buy that alleged Best Buy stores nationwide discriminated against women, African Americans, and Latinos. The complaint charged that these employees were assigned to less desirable positions and denied promotions, and that class members who attained managerial positions were paid less than white males. In November 2011, the Court approved a settlement of the class action in which Best Buy agreed to changes to its personnel policies and procedures to enhance the equal employment opportunities of the tens of thousands of women, African Americans, and Latinos employed by Best Buy nationwide.

***SHERRILL V. PREMERA BLUE CROSS*, NO. 2:10-CV-00590-TSZ (W.D. WASH.)**

In April 2010, a technical worker at Premera Blue Cross filed a lawsuit against Premera seeking overtime pay from its misclassification of technical support workers as exempt. In June 2011, the Court approved a collective and class action settlement of $1.45 million.

***LYON V. TMP WORLDWIDE*, NO. 993096 (CAL. SUPR. CT.)**

Lieff Cabraser served as Class Counsel for a class of certain non-supervisory employees in an advertising firm. The suit alleged that TMP failed to pay overtime wages to these employees. The settlement, approved in 2000, provided almost a 100% recovery to class members.

***LUSARDI V. MCHUGH, SECRETARY OF THE ARMY*, NO. 0120133395 (U.S. EEOC)**

Lieff Cabraser and the Transgender Law Center represented Tamara Lusardi, a transgender civilian software specialist employed by the U.S. Army. In a groundbreaking decision in April 2015, the Equal Employment Opportunity Commission reversed a lower agency decision and held that the employer subjected Lusardi to disparate treatment and harassment based on sex in violation of Title VII of the Civil Rights Act of 1964 when (1) the employer restricted her from using the common female restroom (consistent with her gender identity) and (2) a team leader intentionally and repeatedly referred to her by male pronouns and made hostile remarks about her transition and gender.

ENVIRONMENTAL & TOXIC EXPOSURES

Environmental spills and other industry-created disasters wreak havoc on the living world around us with alarming regularity. These avoidable disasters include wildfires caused by negligently located, maintained, or designed utility equipment, oil spills, coal ash and other industrial spills, refinery and rig explosions, and long-term leakage of industrial pollutants and toxic and mutagenic chemicals into precious groundwater supplies and lifeblood rivers used by wildlife and communities for drinking water.

Lieff Cabraser possesses the expertise and financial resources to thoroughly investigate fires and environmental exposure cases and hold those responsible accountable. We have successfully prosecuted cases against many of the world's most powerful corporations, obtaining multiple billions of dollars in recoveries, including for families, businesses, and property owners throughout the U.S.

Representative Current Cases

***FUEL INDUSTRY CLIMATE CASES*, J.C.C.P. NO. 5310**

Lieff Cabraser has been retained by the California Attorney General's office to support its litigation against five of the largest oil and gas companies in the world over allegations the companies misled the public about climate change. The lawsuit alleges that Exxon Mobil, Shell, Chevron, ConocoPhillips, BP, and the American Petroleum Institute (API) have known for decades that reliance on fossil fuels would cause catastrophic harm to the country, including California, but suppressed that information while also actively pushing disinformation that caused a delayed societal response to global warming. The State is suffering terrible climate harms as a result. The lawsuit, filed on behalf of the People of the State of California, seeks to hold the companies accountable for the lies they have told and the damage they have caused.

***BRAZIEL V. WHITMER, ET AL.*, CASE 1:21-CV-00960-JTN-PJG (W.D. MICHIGAN, SOUTHERN DIVISION)**

In late May 2022, Lieff Cabraser and civil rights legends Edwards & Jennings, P.C. filed a proposed Second Amended Class Action Complaint on behalf of the residents of Benton Harbor, Michigan, in the federal public health emergency litigation arising from the poisoning of the Benton Harbor, Michigan, water supply caused by lead, bacteria, and other contaminants. As described in the Complaint, since at least 2018, Benton Harbor residents, including children and infants, have been exposed, through ingestion and other uses of water, to dangerously high levels of lead and other contaminants that exceed those permissible under the state and national Safe Drinking Water Acts.

An environmental justice community maximally impacted by environmental harms and risks, with a population composed of 85% African-American residents, 27% of Benton Harbor's population are children. The plaintiffs, many of whom are children and infants, have been and continue to be exposed to extreme toxicity from lead and other hazardous contaminants, causing an "imminent and substantial endangerment to their health."

***STERLING, ET AL. V. THE CITY OF JACKSON, MISSISSIPPI, ET AL.*, CASE NO. 3:22-CV-00531-KHJ-MTP (S.D. MISS., NORTHERN DIVISION)**

On September 16, 2022, Lieff Cabraser and co-counsel filed the first federal class action lawsuit on behalf of the residents of Jackson, Mississippi over the extreme water crisis in and around Jackson that left residents without running water for weeks and which arose out of decades of alleged neglect and administrative and political failure. The lawsuit seeks injunctive relief and monetary damages against various government and private engineering defendants over the neglect, mismanagement, and maintenance failures that led to an environmental catastrophe leaving over 153,000 Jackson-area residents without access to safe running water.

As described in the Complaint, the City of Jackson's water supply has been neglected for decades, culminating in a complete shutdown in August 2022 that left over 153,000 residents, 82% of whom are Black, without access to running water. These residents lacked safe drinking water, or water for making powdered baby formula, cooking, showering, or laundry. During the long period where the city had no water pressure—and was unable to facilitate the flow of water—residents of Jackson could not flush their toilets for days at a time. The litigation is ongoing.

ENVIRONMENTAL & TOXIC EXPOSURES

Representative Achievements & Successes

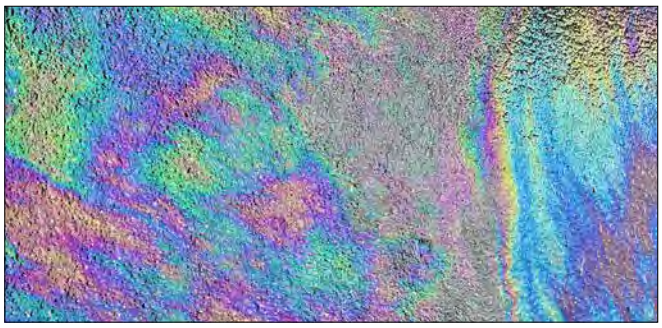
***GUTIERREZ V. AMPLIFY,* NO. 8:21-CV-01628 (C.D. CAL.)**

On Saturday October 2nd, 2021, a failure occurred in a pipeline running from the Port of Long Beach to an offshore oil platform known as Elly, owned by Amplify Energy and operated by Beta Operating Company. The failure caused what is now estimated to be tens of thousands of gallons of oil to gush into the Catalina Channel, creating a slick that spanned over 8,000 acres. The spill left oil along long stretches of beach in Newport Beach, Laguna Beach and Huntington Beach, killing fish and birds and threatening ecologically sensitive wetlands in what officials called an environmental disaster. Commercial fishing off this part of the coast was closed, severely affecting fishers and fish processors throughout the region. Homeowners with beachfront properties or easements were also impacted, as were city beaches.

On December 20, 2021, U.S. District Judge David O. Carter of the Central District of California appointed Lieff Cabraser partner Lexi J. Hazam as Interim Co-Lead Counsel in the Orange County Oil Spill Litigation. Judge Carter also appointed three Special Masters to assist the Court in the litigation.

On January 28, 2022, Interim Co-Lead Counsel filed a Consolidated Class Action Complaint on behalf of commercial fishers, local property owners, and waterfront tourism businesses against Amplify Energy Corporation and related co-defendants, as well as shipping companies and their related codefendants and ships. That Complaint was amended on March 21, 2022 and stated numerous liability claims, and sought all recoverable compensatory, statutory, and other damages, including remediation costs, as well as injunctive relief.

On April 24, 2023, Hon. David O. Carter of the Central District of California approved the Class Plaintiffs' $50 million settlement with Amplify Energy Corporation, Beta Operating Company, LLC, and San Pedro Bay Pipeline Company. Under the Settlement, Amplify will pay $34 million to the Fisher Class, $9 million to the Property Class, and $7 million to the Waterfront Tourism Class. In addition, Amplify has agreed to injunctive relief to help prevent future spills, including installation of a new leak detection system, use of remotely-operated vehicles to detect pipeline movement and allow rapid reporting to federal and state authorities, increased staffing on the off-shore platform and control room, and the establishment of a one-call alert system to report any threatened release of hazardous substances.



***ANDREWS, ET AL. V. PLAINS ALL AMERICAN PIPELINE, ET AL.,* NO.** 2:15-CV-04113-PSG-JEM (C.D. CAL.)

Lieff Cabraser served as Court-appointed Class Counsel in this action arising from an oil spill in Santa Barbara County in May 2015. A pipeline owned by Plains ruptured, and oil from the pipeline flowed into the Pacific Ocean, soiling beaches and impacting local fisheries. Lieff Cabraser represented homeowners who lost the use of the beachfront amenity for which they pay a premium, local oil platform workers who were laid off as a result of the spill and subsequent closure of the pipeline, as well as fishers whose catch was impacted by the oil spill. Plaintiffs alleged that defendants did not follow basic safety protocols when they installed the pipeline, failed to properly monitor and maintain the pipeline, ignored clear signs that the pipeline was corroded and in danger of bursting, and failed to promptly respond to the oil spill when the inevitable rupture occurred.

A settlement was reached in 2022 to provide $184 million to a class of Fishers and Fish Processors injured as a result of the spill, and $46 million to beachfront property owners and lessees whose properties were impacted by the spill.

On September 16, 2022, the Court granted final approval to the $230 million settlement.

***IN RE OIL SPILL BY THE OIL RIG "DEEPWATER HORIZON" IN THE GULF OF MEXICO*, MDL NO. 2179 (E.D. LA.)**

Lieff Cabraser served on the Plaintiffs' Steering Committee ("PSC") and, with co-counsel, represented fishermen, property owners, business owners, wage earners, and other harmed parties in class action litigation against BP, Transocean, Halliburton, and other defendants involved in the Deepwater Horizon oil rig blowout and resulting oil spill in the Gulf of Mexico on April 20, 2010. The Master Complaints alleged that the defendants were careless in addressing the operations of the well and the oil rig, ignored warning signs of the impending disaster, and failed to employ and/or follow proper safety measures, worker safety laws, and environmental protection laws in favor of cost-cutting measures. In 2012, the Court approved two class action settlements to fully compensate hundreds of thousands of victims of the tragedy. The settlements resolved the majority of private economic loss, property damage, and medical injury claims stemming from the Deepwater Horizon Oil Spill, and held BP fully accountable to individuals and businesses harmed by the spill.

Under the settlements, there was no dollar limit on the amount BP would have to pay. In 2014, the U.S. Supreme Court denied review of BP's challenge to its own class action settlement. The settlement received final approval, and has so far delivered $11.2 billion to compensate claimants' losses. The medical settlement also received final approval, and an additional $1 billion settlement was reached with defendant Halliburton.

***2014 KINGSTON, TENNESSEE TVA COAL ASH SPILL LITIGATION*, NO. 3:09-CV-09 (E.D. TENN.)**

Lieff Cabraser represented hundreds of property owners and businesses harmed by the largest coal ash spill in U.S. history. On December 22, 2008, more than a billion gallons of coal ash slurry spilled when a dike burst on a retention pond at the Kingston Fossil Plant operated by the Tennessee Valley Authority (TVA) in Roane County, Tennessee. A wall of coal ash slurry traveled across the Emory River, polluting the river and nearby waterways, and covering nearly 300 acres with toxic sludge, including 12 homes, and damaging hundreds of properties. In March 2010, the Court denied in large part TVA's motion to dismiss the litigation. In the Fall of 2011, the Court conducted a four week bench trial on the question of whether TVA was liable for releasing the coal ash into the river system.

The issue of damages was reserved for later proceedings. In August 2012, the Court found in favor of plaintiffs on their claims of negligence, trespass, and private nuisance. In August 2014, the case came to a conclusion with TVA's payment of $27.8 million to settle the litigation.

***SOUTHERN CALIFORNIA GAS LEAK CASES*, JCCP NO. 4861**

Lieff Cabraser was selected by the Los Angeles County Superior Court to help lead two important class action cases on behalf of homeowners and businesses that suffered economic injuries in the wake of the massive Porter Ranch gas leak, which began in October of 2015 and lasted into February of 2016. During this time, huge quantities of natural gas spewed out of an old well at Southern California Gas's Aliso Canyon Facility and into the air of Porter Ranch, a neighborhood located adjacent to the Facility and 25 miles northwest of Los Angeles.

This large-scale environmental disaster forced thousands of residents to leave their homes for months on end while the leak continued, and for several months thereafter. It also caused local business to dry up during the busy holiday season, as many residents had evacuated the neighborhood and visitors avoided the area. Evidence suggests the leak was caused by at least one old and malfunctioning well used to inject and retrieve gas. Southern California Gas Company allegedly removed the safety valve on the well that could have prevented the leak. As a result, the gas leak left a carbon footprint larger than that of the Deepwater Horizon oil spill.

Together with other firms chosen to pursue class relief for these victims, Lieff Cabraser filed two class action complaints – one on behalf of Porter Ranch homeowners, and another on behalf of Porter Ranch businesses.

Southern California Gas argued in response that the injuries suffered by homeowners and businesses could not proceed as class actions. In May 2017, the Superior Court rejected these arguments. In 2022, the class of property owners and lessees reached a settlement of $40 million.The claims of the class of business owners were ultimately denied by the California Supreme Court.

***IN RE IMPRELIS HERBICIDE MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION*, MDL NO. 2284 (E.D. PA.)**

Lieff Cabraser served as Co-Lead Counsel for homeowners, golf course companies, and other property owners in a nationwide class action lawsuit against E.I. du Pont de Nemours & Company ("DuPont"), charging that its herbicide Imprelis caused widespread death among trees and other non-targeted vegetation across the country.

DuPont marketed Imprelis as an environmentally friendly alternative to the commonly used 2,4-D herbicide. Just weeks after Imprelis' introduction to the market in late 2010, however, complaints of tree damage began to surface. Property owners reported curling needles, severe browning, and dieback in trees near turf that had been treated with Imprelis. In August 2011, the U.S. Environmental Protection Agency banned the sale of Imprelis.

The complaint charged that DuPont failed to disclose the risks Imprelis posed to trees, even when applied as directed, and failed to provide instructions for the safe application of Imprelis. In response to the litigation, DuPont created a process for property owners to submit claims for damages. Approximately $600 million was paid to approximately 25,000 claimants. In October 2013, the Court approved a settlement of the class action that substantially enhanced the DuPont claims process, including by adding an extended warranty, a more limited release of claims, the right to appeal the denial of claim by DuPont to an independent arborist, and publication of DuPont's tree payment schedule.

***IN RE EXXON VALDEZ OIL SPILL LITIGATION*, NO. 3:89-CV-0095 HRH (D. AL.)**

The Exxon Valdez ran aground on March 24, 1989, spilling 11 million gallons of oil into Prince William Sound. Lieff Cabraser served as one of the Court-appointed Plaintiffs' Class Counsel. The class consisted of fisherman and

others whose livelihoods were gravely affected by the disaster. In addition, Lieff Cabraser served on the Class Trial Team that tried the case before a jury in federal court in 1994. The jury returned an award of $5 billion in punitive damages.

In 2001, the Ninth Circuit Court of Appeals ruled that the original $5 billion punitive damages verdict was excessive. In 2002, U.S. District Court Judge H. Russell Holland reinstated the award at $4 billion. Judge Holland stated that, "Exxon officials knew that carrying huge volumes of crude oil through Prince William Sound was a dangerous business, yet they knowingly permitted a relapsed alcoholic to direct the operation of the Exxon Valdez through Prince William Sound." In 2003, the Ninth Circuit again directed Judge Holland to reconsider the punitive damages award under United States Supreme Court punitive damages guidelines. In January 2004, Judge Holland issued his order finding that Supreme Court authority did not change the Court's earlier analysis.

In December 2006, the Ninth Circuit Court of Appeals issued its ruling, setting the punitive damages award at $2.5 billion. Subsequently, the U.S. Supreme Court further reduced the punitive damages award to $507.5 million, an amount equal to the compensatory damages. With interest, the total award to the plaintiff class was $977 million.

***WEST V. G&H SEED CO., ET AL.*, NO. 99-C-4984-A (LA. STATE CT.)**

With co-counsel, Lieff Cabraser represented a certified class of 1,500 Louisiana crawfish farmers who alleged that Fipronil, an insecticide sold under the trade name ICON, damaged their pond-grown crawfish crops. In Louisiana, rice and crawfish are often farmed together, either in the same pond or in close proximity to one another. After its introduction to the market in 1999, ICON was used extensively in Louisiana to kill water weevils that attacked rice plants. The lawsuit alleged that ICON also had a devastating effect on crawfish harvests with some farmers losing their entire crawfish crop.

In 2004, the Court approved a $45 million settlement with Bayer CropScience, which during the litigation purchased

Aventis CropScience, the original manufacturer of ICON. The settlement was reached after the parties had presented nearly a month's worth of evidence at trial and were on the verge of making closing arguments to the jury.

***KENTUCKY COAL SLUDGE LITIGATION*, NO. 00-CI-00245 (CMMW. KY.)**

On October 11, 2000, near Inez, Kentucky, a coal waste storage facility ruptured, spilling 1.25 million tons of coal sludge (a wet mixture produced by the treatment and cleaning of coal) into waterways in the region and contaminating hundreds of properties. This was one of the worst environmental disasters ever in the Southeastern United States. With co-counsel, Lieff Cabraser represented over 400 clients in property damage claims, including claims for diminution in the value of their homes and properties. In April 2003, the parties reached a confidential settlement agreement on terms favorable to the plaintiffs.

***IN RE GCC RICHMOND WORKS CASES, JCCP,* NO. 2906 (CAL. SUPR. CT.)**

Lieff Cabraser served as Co-Liaison Counsel and Lead Class Counsel in coordinated litigation arising out of the July 26, 1993, release of a massive toxic sulfuric acid cloud which injured an estimated 50,000 residents of Richmond, California. In 1995, the Coordination Trial Court granted final approval to a $180 million class settlement for exposed residents.

***IN RE UNOCAL REFINERY LITIGATION*, NO. C 94-04141 (CAL. SUPR. CT.)**

Lieff Cabraser served as one of two Co-Lead Class Counsel and on the Plaintiffs' Steering Committee in this action against Union Oil Company of California ("Unocal") arising from a series of toxic releases from Unocal's San Francisco refinery in Rodeo, California. The action was settled in 1997 on behalf of approximately 10,000 individuals for $80 million.

***TOMS RIVER CHILDHOOD CANCER INCIDENTS*, NO. L-10445-01 MT (SUP. CT. NJ)**

With co-counsel, Lieff Cabraser represented 69 families in Toms River, New Jersey, each who had a child with cancer, that claimed the cancers were caused by environmental contamination in the Toms River area. Commencing in 1998, the parties—the 69 families, Ciba Specialty Chemicals, Union Carbide and United Water Resources, Inc., a water distributor in the area—participated in an unique alternative dispute resolution process, which lead to a fair and efficient consideration of the factual and scientific issues in the matter. In December 2001, under the supervision of a mediator, a confidential settlement favorable to the families was reached.

***IN RE SACRAMENTO RIVER SPILL CASES I AND II*, JCCP NOS. 2617 & 2620 (CAL. SUPR. CT.)**

On July 14, 1991, a Southern Pacific train tanker car derailed in northern California, spilling 19,000 gallons of a toxic pesticide, metam sodium, into the Sacramento River near the town of Dunsmuir at a site along the rail lines known as the Cantara Loop. The metam sodium mixed thoroughly with the river water and had a devastating effect on the river and surrounding ecosystem. Within a week, every fish, 1.1 million in total, and all other aquatic life in a 45-mile stretch of the Sacramento River was killed. In addition, many residents living along the river became ill with symptoms that included headaches, shortness of breath, and vomiting. The spill is considered the worst inland ecological disaster in California history.

Lieff Cabraser served as Court appointed Plaintiffs' Liaison Counsel and Lead Class Counsel, and chaired the Plaintiffs' Litigation Committee in coordinated proceedings that included all of the lawsuits arising out of this toxic spill. Settlement proceeds of approximately $16 million were distributed pursuant to Court approval of a plan of allocation to four certified plaintiff classes: personal injury, business loss, property damage/diminution, and evacuation.

FALSE CLAIMS ACT

Lieff Cabraser represents whistleblowers in a wide range of False Claims Act cases, including Medicare kickback and healthcare fraud, defense contractor fraud, and securities and financial fraud. We have more than a dozen whistleblower cases currently under seal and investigation in federal and state jurisdictions across the U.S. For that reason, we do not list all of our current False Claims Act and qui tam cases in our firm resume.

Representative Current Cases

***STATE OF CALIFORNIA V. ABBVIE, INC.*, NO. RG18893169 (CAL. SUP. CT.)**

On September 18, 2018, Lieff Cabraser and California Insurance Commissioner Dave Jones sued AbbVie, Inc. for violations of the Insurance Frauds Prevention Act ("IFPA") by providing kickbacks to healthcare providers throughout California relating to sale of the immunosuppressive drug Humira. The lawsuit, filed in California Superior Court in Alameda, California, alleged that AbbVie engaged in a far-reaching scheme to maximize profits and the number of prescriptions of Humira via "classic" kickbacks—including cash, meals, drinks, gifts, trips, and patient referrals—as well as more sophisticated kickbacks, including professional services to physicians, to induce and reward Humira prescriptions. The Complaint further alleged that AbbVie deployed so-called "Ambassadors" directly into patients' homes, ostensibly to provide a helping hand, but in fact to provide valuable services to benefit health care providers, ensure prescriptions were filled, and deflect patient concerns. In addition, AbbVie directed its Ambassadors to avoid patient questions about risks for the dangerous drug. These kickbacks saved time and money for doctors and their staff.

Defendants sought removal to federal court, but in July 2019 Northern District Judge James Donato issued an order remanding the case back to California Superior Court, noting that plaintiffs brought suit against AbbVie only for its conduct in California, that of pursuing its two illicit schemes to "pump up" the sales of Humira with the state. In August 2020, the California Department of Insurance Fraud announced a $24 million settlement of the case that included meaningful Humira marketing reforms. "AbbVie's prior practices in marketing HUMIRA egregiously put profits ahead of transparency in patient care and violated California law," noted California Insurance Commissioner Ricardo Lara. "This settlement delivers important reforms to AbbVie's business practices and a substantial monetary recovery that will be used to continue to combat insurance fraud."

***UNITED STATES EX REL. MATTHEW CESTRA V. CEPHALON*, NO. 14-01842 (E.D. PA.); *UNITED STATES EX REL. BRUCE BOISE ET AL. V. CEPHALON*, NO. 08-287 (E.D. PA.)**

Lieff Cabraser, with co-counsel, represented four whistleblowers bringing claims on behalf of the U.S. Government and various states against Cephalon, Inc., a pharmaceutical company. Relators alleged that Cephalon engaged in improper or off-label marketing of a cancer drug and two wakefulness drugs. Motions to dismiss were denied in large part and the cases proceeded to discovery before resolving via settlement in 2017.

***UNITED STATES EX REL. MARY HENDOW AND JULIE ALBERTSON V. UNIVERSITY OF PHOENIX*, NO. 2:03-CV-00457-GEB-DAD (E.D. CAL.)**

Lieff Cabraser obtained a record whistleblower settlement against the University of Phoenix in a case that charged the university had violated the incentive in a case that compensation ban of the Higher Education Act (HEA) by providing improper incentive pay to its recruiters. The HEA prohibits colleges and universities whose students receive

federal financial aid from paying their recruiters based on the number of students enrolled, which creates a risk of encouraging recruitment of unqualified students who, Congress has determined, are more likely to default on their loans. High student loan default rates not only result in wasted federal funds, but the students who receive these loans and default are burdened for years with tremendous debt without the benefit of a college degree.

The complaint alleged that the University of Phoenix defrauded the U.S. Department of Education by obtaining federal student loan and Pell Grant monies from the federal government based on false statements of compliance with HEA. In December 2009, the parties announced a $78.5 million settlement. The settlement constitutes the second-largest settlement ever in a False Claims Act case in which the federal government declined to intervene in the action and largest settlement ever involving the Department of Education. The University of Phoenix case led to the Obama Administration passing new regulations that took away the so-called "safe harbor" provisions that for-profit universities relied on to justify their alleged recruitment misconduct. For his outstanding work as Lead Counsel and the significance of the case, California Lawyer magazine recognized Lieff Cabraser attorney Robert J. Nelson with a California Lawyer of the Year (CLAY) Award.

***STATE OF CALIFORNIA EX REL. SHERWIN V. OFFICE DEPOT,* NO. BC410135 (CAL. SUPR. CT.)**

In February 2015, the Court approved a $77.5 million settlement with Office Depot to settle a whistleblower lawsuit brought under the California False Claims Act. The whistleblower was a former Office Depot account manager. The City of Los Angeles, County of Santa Clara, Stockton Unified School District, and 16 additional California cities, counties, and school districts intervened in the action to assert their claims (including common-law fraud and breach of contract) against Office Depot directly. The governmental entities purchased office supplies from Office Depot under a nationwide supply contract known as the U.S. Communities contract. Office Depot promised in the U.S. Communities contract to sell office supplies at its best governmental pricing nationwide. The complaint alleged that Office Depot repeatedly failed to give most of its California governmental customers the lowest price it was offering other governmental customers. Other pricing misconduct was also alleged.

***STATE OF CALIFORNIA EX REL. ROCKVILLE RECOVERY ASSOCIATES V. MULTIPLAN*, NO. 34-2010-00079432 (SACRAMENTO SUPR. CT., CAL.)**

Lieff Cabraser represented whistleblower Rockville Recovery Associates in a qui tam suit for civil penalties under the California Insurance Frauds Prevention Act ("IFPA"), Cal. Insurance Code § 1871.7, against Sutter Health, one of California's largest healthcare providers, and obtained the largest penalty ever imposed under the statute. The parties reached a $46 million settlement that was announced in November 2013, shortly before trial was scheduled to commence.

The complaint alleged that the 26 Sutter hospitals throughout California submitted false, fraudulent, or misleading charges for anesthesia services (separate from the anesthesiologist's fees) during operating room procedures that were already covered in the operating room bill.

After Lieff Cabraser defeated Sutter Health's demurrer and motion to compel arbitration, California Insurance Commissioner Dave Jones intervened in the litigation in May 2011. Lieff Cabraser attorneys continued to serve as lead counsel, and litigated the case for over two more years. In all, plaintiffs defeated no less than 10 dispositive motions, as well as three writ petitions to the Court of Appeals.

In addition to the monetary recovery, Sutter Health agreed to a comprehensive series of billing and transparency reforms, which California Insurance Commissioner Dave Jones called "a groundbreaking step in opening up hospital billing to public scrutiny." On the date the settlement was announced, the California Hospital Association recognized its significance by issuing a press release stating that the settlement "compels industry-wide review of anesthesia billing." Defendant Multiplan, Inc., a large leased network Preferred Provider Organization, separately paid a $925,000 civil penalty for its role in enabling Sutter's alleged false billing scheme.

***UNITED STATES EX REL. DYE V. ATK LAUNCH SYSTEMS*, NO. 1:06-CV-39-TS (D. UTAH)**

Lieff Cabraser served as co-counsel for a whistleblower who alleged that ATK Launch Systems knowingly sold defective and potentially dangerous illumination flares to the United States military in violation of the federal False Claims Act. The specialized flares were used in nighttime combat, covert missions, and search and rescue operations. A key design specification set by the Defense Department was that these highly flammable and dangerous items ignite only under certain conditions. The complaint alleged that the ATK flares at issue could ignite when dropped from a height of less than 10 feet —and, according to ATK's own analysis, from as little as 11.6 inches—notwithstanding contractual specifications that they be capable of withstanding such a drop. In April 2012, the parties reached a settlement valued at $37 million.

***UNITED STATES EX REL. MAURO VOSILLA AND STEVEN ROSSOW V. AVAYA, INC.*, NO. CV04-8763 PA JTLX (C.D. CAL.)**

Lieff Cabraser represented a whistleblower in litigation alleging that

defendants Avaya, Lucent Technologies, and AT&T violated the Federal False Claims Act and state false claims statutes. The complaint alleged that defendants charged governmental agencies for the lease, rental, and post-warranty maintenance of telephone communications systems and services that the governmental agencies no longer possessed and/or were no longer maintained by defendants. In November 2010, the parties entered into a $21.75 million settlement of the litigation.

***STATE OF CALIFORNIA EX REL. ASSOCIATES AGAINST FX INSIDER STATE STREET CORP.*, NO. 34-2008-00008457 (SACRAMENTO SUPR. CT., CAL.) ("STATE STREET I")**

Lieff Cabraser served as co-counsel for the whistleblowers in this action against State Street Corporation. The Complaint alleged that State Street violated the California False Claims Act with respect to certain foreign exchange transactions it executed with two California public pension fund custodial clients. The California Attorney General intervened in the case in October 2009.

FALSE CLAIMS ACT

Representative Achievements & Successes

GOLD COAST HEALTH PLAN QUI TAM MISUSE OF GOVERNEMNT FUNDS LITIGATION

Lieff Cabraser represented Relators in a False Claims Act whistleblower lawsuit against Gold Coast Health Plan and certain California medical providers over allegations that the defendants knowingly misused Medi-Cal funds they received from the federal government and California State Government in 2014 and 2015 for newly-enrolled adult Medi-Cal patients under the Affordable Care Act. In August 2022, the defendants' agreed to a $70.7 million settlement, in which Gold Coast will pay $17.2 million to state and federal governments, and providers that received allegedly illegal payments—Ventura County Medical Center, Dignity Health, and Clinicas del Camino Real Inc.—were to pay an additional $53.5 million.

PERSONAL INJURY

Over the last 50 years, Lieff Cabraser has played a leading role in many of the largest, most important mass tort, personal injury law, and wrongful death lawsuits in the U.S. These cases have involved negligent conduct as well as injuries from a vast range of dangerous defective products—from prescription drugs, products like talcum powder linked to ovarian cancer, and faulty medical devices, to unsafe vehicles and consumer products. In many cases, we also compelled corporate defendants to improve their safety procedures and/or issue nationwide recalls for the protection of all consumers and patients.

Representative Current Cases

***SOCIAL MEDIA LITIGATION: WESTWOOD V. META PLATFORMS INC. AND INSTAGRAM LLC*, 2:22-CV-00556-JCB (D. UTAH)**

In September 2022, Lieff Cabraser and co-counsel filed a federal injury lawsuit in Utah on behalf of Mandy and Douglas Westwood and their minor daughter, B.W., a teen Instagram user, alleging that Meta/Facebook's Instagram platform is designed to hook young users like B.W in a manner that endangers their health and welfare, leading B.W. and many others to suffer from severe eating disorders such as anorexia.

As detailed in the complaint, studies and internal documents from Instagram "confirmed what social scientists have long suspected: social media products like Instagram—and Instagram in particular—can cause serious harm to the mental and physical health of young users, especially to teenage girls like B.W. Worse, this capacity for harm is not accidental but by design: what makes Instagram a profitable enterprise for Meta is precisely what harms its young users."

In November 2022, Lieff Cabraser partner Lexi Hazam was named Co-Lead Counsel for plaintiffs in the nationwide multidistrict teen/youth social media addiction litigation. The MDL alleges that social media apps such as Facebook and TikTok cause addiction and mental health problems in young users, including suicidal thoughts, body image issues, anxiety, and depression.

UBER SEX ASSAULT

Lieff Cabraser and cocounsel have filed lawsuits alleging that Uber misled plaintiff and the public into believing it provided safe rides and that it was addressing safety issues, including sexual assault. In December 2023, Lieff Cabraser partner Sarah London was appointed Plaintiffs' Co-Lead and Liaison Counsel in the aggregate litigation against Uber in federal court in San Francisco arising from sexual harassment, physical attack, sexual assault, and battery committed by Uber drivers. The complaint alleges Uber hires drivers without interviewing them, fingerprinting them, or running them through the FBI databases, and that it knew or should have known it was highly probable that harm would result.

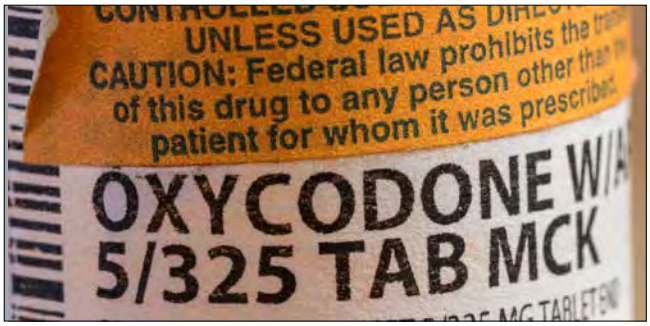
***GLOVER, ET AL., V. BAUSCH & LOMB INC., ET AL.*, NO. 3:18-CV-00352 (D. CONN.)**

Lieff Cabraser represents an injured patient who suffered severe complications after receiving eye lens implants from Bausch & Lomb Inc. In July of 2023, court found that the plaintiffs' third amended complaint sufficiently alleged a failure-to-warn claim. The plaintiff had Bausch Trulign lenses implanted in each eye during cataract procedures in 2014.

After her second surgery, the plaintiff began to experience severe complications, including significant vision loss and eye pain, undergoing ultimately unsuccessful surgeries to bring back her vision and being diagnosed with Z syndrome, which causes a lens to twist or tilt. Her suit further alleges defendants failed to file adverse event reports with the Food and Drug Administration, including for "known incidents of Z Syndrome," quickly enough. "The [third amended complaint] alleges relevant date

ranges in which adverse events occurred but were not reported to the FDA and identifies at least four instances of Z syndrome occurring, but only one adverse event report filed by defendants to the FDA," the Court's order said.

In 2021, the Second Circuit Court of Appeals certified to the Connecticut Supreme Court the question of whether the plaintiffs' allegations that a medical device manufacturer failed to timely report adverse events to the FDA stated a claim under Connecticut law. In 2022, the Connecticut Supreme Court held for the first time that such allegations do state a claim under the Connecticut Products Liability Act.



***NATIONAL PRESCRIPTION OPIATE LITIGATION,* MDL NO. 2804**

We represent cities, counties, Native American tribes, and tribal health organizations across the U.S. seeking justice and restitution from opioid makers and distributors for their role in the devastating opioid addiction and overdose crisis that has ravaged the nation for nearly two decades. We were also instrumental as part of the plaintiff team that won a $26 billion national settlement with opioid distributors and manufacturers that will provide thousands of U.S. communities with opioid recovery and remediation funds. In 2022, we also served on the negotiating committee responsible for additional national settlements with Teva/Allergan and the three major chain pharmacies, bringing the total of opioids litigation settlements to date to nearly $50 billion.

***IN RE MCKINSEY & CO., INC., NAT'L PRESCRIPTION OPIATE CONSULTANT LITIGATION*, (MDL NO. 2996)**

In August 2021, Elizabeth Cabraser was appointed Plaintiffs' Lead Counsel and Chair of the Plaintiffs' Steering Committee in *In re McKinsey & Co., Inc., Nat'l Prescription Opiate Consultant Litigation* (MDL No. 2996), multidistrict litigation pending in the Northern District of California. The transferred actions allege that McKinsey & Company, a management consulting firm, played an integral role in creating and deepening the opioid crisis, including working closely with the major opioid manufacturers, such as Purdue Pharmaceutical, to promote, market, and sell opioids, despite knowing the risks associated with over-prescribing these controlled substances. The plaintiff subgroups include Political Subdivisions, School Districts, Tribes, Third Party Payors, and Native American Services-administered Children. These cases have been assigned to Judge Charles R. Breyer for coordinated discovery and pretrial matters. A settlement of $78 million was announced in August 2024.

***MEDLEY V. ABBOTT LABORATORIES, INC.*, NO. 2:22-CV-00273 (D. NV.)**

In February 2022, Lieff Cabraser and co-counsel filed a personal injury lawsuit against Abbott Laboratories relating to the manufacture, marketing, and sale of Similac Neosure Formula for infants alleging infant KM's horrific necrotizing enterocolitis ("NEC") was caused by his consumption of the cow-based infant formula. NEC is a potentially fatal disease that largely affects low birth weight babies who are fed cow-based formula or products. KM, a premature-born, low birth weight baby, was fed Similac Neosure and developed NEC shortly thereafter. The complaint alleges Abbott's negligent, willful, and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promotion, marketing, distribution, labeling, and/or sale of the product known as Similac Neosure.

The complaint further alleges that Abbott specifically marketed its formula and fortifier as necessary to the growth and development of premature infants when in fact its products pose a known and substantial risk to these babies, conduct which led to life-threatening ongoing injuries suffered by the plaintiffs' son KM. The complaint also details Abbott's practice of trying to get parents to choose formula over breast milk goes back decades, during which time the company has promoted its formula as healthier, necessary for adequate nutrition, and the choice for the modern, sophisticated mother. Abbott's advertising has even at times attempted to portray breastfeeding as an inferior and "less sophisticated" choice, against substantial medical evidence.

***IN RE JUUL LABS INC. MARKETING SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION*, NO. 19-MD-02913-WHO (N.D. CAL.)**

Lieff Cabraser represents multiple plaintiffs who suffered devastating lung, stroke, and other cardiovascular injuries from their use of Juul e-cigarettes. The lawsuits allege Juul Labs, Inc. manufactures and markets unsafe and inherently defective products in marked contrast to Juul's vast, pervasive, and deceptive marketing as well as failure to warn users about Juul dangers, negligence in the manufacture, labeling, and promotion of its highly addictive products, and improperly enticing youths to consume e-cigarettes so as to build a new market of nicotine-addicted consumers. In December 2019, Lieff Cabraser partner Sarah R. London was named Co-Lead Counsel for Plaintiffs in the nationwide multidistrict Juul e-cigarette fraud and injury litigation.

In September 2020, Lieff Cabraser filed a subsequent federal lawsuit in U.S. District Court in Colorado against JLI, Altria, and culpable managing and director defendants on behalf of the Boulder Valley School District for violations of Colorado law and of the federal Racketeer Influenced and Corrupt Organizations Act ("RICO") as well as negligence and nuisance laws relating to the companies' creation and youth-targeted marketing of a new nicotine delivery product to maximize profits through addiction. Lieff Cabraser also represents the State of Hawaii and the Yurok Tribe in their related actions regarding Juul e-cigarettes. In June of 2022, District Court Judge William H. Orrick issued an order formally certifying four classes of plaintiffs in the sprawling national Juul case.

In early December 2022, four major settlements with Juul labs were announced to benefit the injured, consumers, government entities, and native tribes in the MDL and California JCCP matters.

On March 14, 2024, U.S. District Judge William Orrick of the Northern District of California issued an order granting final approval to a comprehensive $235 million settlement with Altria in the nationwide JUUL e-cigarette youth vaping predatory advertising, fraud, addiction and injury litigation. Unprecedented in scope, speed, and significance, the global settlement, reached just after plaintiffs concluded their case in the bellwether trial in San Francisco, was the culmination of four years of a vast, unrelenting effort by plaintiffs and their counsel to hold Altria accountable for the 21st century's 'cigarettes redux' youth nicotine plague.

The settlement will resolve all remaining personal injury, consumer class action, and government entity cases brought in the national MDL and the JCCP in California against Altria. The settlement includes over 8,500 personal injury cases, and over 1,400 government entity cases, and a massive class of consumers. "The scope of these suits is beyond vast," noted Co-Lead Counsel and Lieff Cabraser partner Sarah R. London: "This settlement, in combination with the earlier JUUL settlements, marks a stunning and complete resolution of the JUUL/Altria litigation, and adds substantial additional compensation for victims and their families, get real funds to schools for abatement programs, and help local governments further prevent youth use of e-cigarettes across America."

***IN RE PACIFIC FERTILITY CENTER LITIGATION*, NO. 3:18-CV-01586-JSC (N.D. CAL.)**

In April 2018, Lieff Cabraser and co-counsel filed a federal class action lawsuit against Pacific Fertility Center on behalf of eight individual plaintiffs over the Center's March 2018 destruction of or serious threat to hundreds of cryogenically preserved eggs and embryos stored at its facility in San Francisco that occurred as a result of liquid nitrogen depletion in one of its storage tanks. Pacific Fertility Center has admitted that embryos and eggs may have been destroyed when Tank 4 failed. As noted in the amended complaint filed in May 2018, one month after the tank failure incident, in April 2018, Chart Industries, the manufacturer of the tank, issued a recall of several cryopreservation tanks citing reports of issues with "vacuum leak."

On May 1st, 2018, Judge Jacqueline Scott Corley of the U.S. District Court for the Ninth Circuit consolidated three separately filed class action cases including the cases filed by Lieff Cabraser on behalf of women and families who stored their frozen eggs and embryos in the malfunctioning equipment at Pacific Fertility Center in San Francisco. On May 15, 2018, Judge Corley named Lieff Cabraser partner Sarah R. London as Interim Co-Lead Class Counsel in the consolidated proposed class action lawsuits charging Pacific Fertility Clinic with breach of contract and negligence relating to the destruction

of stored eggs and embryos in the wake of cryogenic storage tank failures in early March 2018.

Individual cases related to the Tank 4 failure are also pending in JCCP 5021, *Pacific Fertility Cases*, in San Francisco Superior Court. Lieff Cabraser partner Sarah R. London serves in a leadership role in JCCP 5021, where she was appointed Co-Liaison Counsel. In August 2021, Plaintiffs reached a historic, confidential settlement with Pacific Fertility Center and related defendants.

3M DEFECTIVE MILITARY EAR PLUGS INJURY LITIGATION

After 3M revealed it would pay $9.1 million to resolve allegations it knowingly sold defective military-grade ear plugs to the U.S. military, tens of thousands of veterans and servicemembers brought claims against the company for hearing losses caused by use of the Combat Arms Earplugs, which were standard-issue from 2003 to 2015 and were used by troops around the world, including in Afghanistan and Iraq. These lawsuits were consolidated before a single federal judge set to oversee over 200,000 claims, making this the largest MDL in history. The judge appointed a team of attorneys to coordinate the lawsuits against 3M. Lieff Cabraser partner Kenny Byrd serves on the Plaintiffs' Early Vetting Subcommittee in the aggregated litigation, which is ongoing.

***WOOLSEY FIRE CASES*, JCCP NO. 5000 (CAL. SUPR. CT.)**

Judge William F. Highberger named Lexi J. Hazam as Co-Lead Counsel for Individual Plaintiffs in the coordinated Woolsey Fire Cases against Southern California Edison relating to the devastating 2018 fire that burned more than 1000 homes and 96,000 acres in Los Angeles and Ventura Counties. The action includes claims for negligence, trespass, inverse condemnation, and violation of the California Public Utilities and Health and Safety codes, and seeks damages for the fires victims' losses.

***GILEAD TENOFOVIR CASES*, JCCP NO. 5043 (CAL. SUPERIOR COURT)**

In these first-in-the-nation lawsuits, patients claim certain Gilead drugs were more harmful than newer drugs the company had created, but would not sell until its stock of the more harmful older drugs was exhausted. Plaintiffs allege that Gilead knew or should have known of a safer alternative design for its TDF-containing drugs, and that Gilead failed to adequately warn of the known and knowable risks associated with its medications. The lawsuit alleges causes of action for strict products liability, negligent products liability, breach of implied warranty, and breach of express warranty.

In February 2020, the court in the Gilead HIV Drug Kidney & Bone Injuries litigation named Lieff Cabraser partner Sarah R. London to the Plaintiffs' Executive Committee in the case filed on behalf of patients across California alleging kidney and bone injuries from outdated HIV drugs (Truvada and Atripla) made and distributed by pharmaceutical giant Gilead Sciences. Fourteen individual test cases are being scheduled for what are known as "bellwether" trials, with the goal of moving the overall litigation towards resolution.

The first bellwether trial was scheduled for October 2022, and the parties are still working to identify the additional cases that will serve as bellwethers. During a July 9, 2021 case management conference held to address various pending issues, the Judge issued several favorable orders for plaintiffs in the litigation, and denied Gilead's request for a burdensome set of requirements for obtaining the testimony of plaintiffs facing extreme and urgent health problems who face the risk of not surviving to see their case go to trial, ruling that these special circumstances will be determined on a case-by-case basis.

RETRIEVABLE INFERIOR VENA CAVA BLOOD FILTER INJURIES, *IN RE BARD IVC FILTERS PRODS. LIAB. LITIG.*, MDL NO. 2641 (D. ARIZ.)

Inferior Vena Cava ("IVC")blood filters are small, basket-like medical devices that are inserted into the inferior vena cava, the main blood vessel that returns blood from the lower half of the body to the heart. Tens of thousands of patients in the U.S. have been implanted with IVC filters in order to provide temporary protection from pulmonary embolisms. However, these devices have resulted in multiple complications including device fracture, device migration, perforation of various organs, and an increased risk for venous thrombosis. Due to these complications, patients may have to undergo invasive device removal surgery or suffer heart attacks, hemorrhages, or other major injuries. We represent injured patients and their families in individual personal injury and wrongful death

lawsuits against IVC filter manufacturers, and Lieff Cabraser attorney Wendy R. Fleishman serves on the Plaintiffs Executive Committee in the IVC Filter cases in the federal multidistrict litigation.

***POWER MORCELLATORS LITIGATION*, MDL NO. 2652 (D. KAN.)**

Lieff Cabraser represents women who underwent a hysterectomy (the removal of the uterus) or myomectomy (the removal of uterine fibroids) in which a laparoscopic power morcellator was used. In November 2014, the FDA warned surgeons that they should avoid the use of laparoscopic power morcellators for removing uterine

tissue in the vast majority of cases due to the risk of the devices spreading unsuspected cancer. Based on current data, the FDA estimates that 1 in 350 women undergoing hysterectomy or myomectomy for the treatment of fibroids have an unsuspected uterine sarcoma, a type of uterine cancer that includes leiomyosarcoma.

PERSONAL INJURY

Representative Achievements & Successes

***CITY AND COUNTY OF SAN FRANCISCO ET AL. V. PURDUE PHARMA L.P. ET AL.*, NO. 3:18-CV-07591-CRB (N.D. CAL.)**

Lieff Cabraser served as co-lead counsel representing San Francisco in the City/County's litigation against opioid manufacturers, distributors, and dispensers for creating the Bay Area's devastating opioid epidemic. One of a select few cases remanded from the Opioids MDL, it served a critical function in advancing the most complex civil litigation in U.S. history. The lawsuit alleged the defendant pharmaceutical manufacturers and national drug distributors orchestrated a vast and ongoing lethal fraud in which they made billions by deceptively marketing these fundamentally unsafe drugs to the people of San Francisco while representing the drugs as safe and effective, creating thousands upon thousands of addicts and leading to horrific deaths as well as unprecedented strains on the city/county's public services. The Lieff Cabraser team played an instrumental role leading the City's many briefing efforts, arguing pretrial motions in court on a monthly basis, and orchestrating complex, multi-party discovery. San Francisco thereby survived the defendants' myriad motion to dismiss, and the case began trial in in federal court in April 2022. Most of the defendants chose to settle their cases during the trial. In August 2022, the Court found Walgreens liable for substantially contributing to the opioid epidemic in San Francisco, making this the second such trial to decide in a plaintiff's favor in the national opioid litigation, and the first bench trial to find Walgreens liable. Subsequently, Walgreens and the two other major chain pharmacies agreed to settle the national opioids litigation for a combined total of nearly $14 billion.

NORTHERN AND SOUTHERN CALIFORNIA WILDFIRE CASES

Horrific unprecedented wildfires have blazed devastation through California over the last several years. Lieff Cabraser has been successful in representing wildfire victims throughout the state, including serving as Co-Lead Counsel in the coordinated Woolsey and Thomas Fire

cases in Southern California against SoCal Edison, and as Class Action Committee Chair and on the Individual Plaintiffs' Executive Committee in lawsuits against PG&E over Northern California wildfires. In 2019, we helped guide negotiations with PG&E that culminated in an historic $13.5 billion trust settlement on behalf of wildfire victims.

***SOUTHERN CALIFORNIA FIRE CASES* (CALIFORNIA THOMAS WILDFIRE & MUDSLIDE LITIGATION), JCCP NO. 4965 (CAL. SUPR. CT.)**

Lieff Cabraser serves as Co-Lead Counsel for Individual Plaintiffs in litigation involving thousands of Plaintiffs against Southern California Edison over the role of the utility's equipment in starting the devastating Thomas Fire that destroyed over a thousand homes in Southern California in December 2017, and the resulting mudslides in Montecito that destroyed additional homes and killed 23 people. Plaintiffs surmounted a demurrer to their inverse condemnation claim. After extensive discovery, including relating to the official investigation, and shortly before multiplaintiff bellwether trials were to occur, the litigation entered into a settlement protocol, which has resolved over 1,600 cases to date. Together with the individual plaintiffs in the Woolsey Fire, these plaintiffs have recovered well over $1 billion to date.

***2017 CALIFORNIA NORTH BAY FIRE CASES*, JCCP NO. 4955 (CAL. SUPR. CT.)**

Lieff Cabraser attorneys served as Chairs of the Class Action Committee in the consolidated lawsuits against Pacific Gas & Electric relating to losses from the 2017 North Bay Fires, and also served on the Individual Plaintiffs' Executive Committee.

In January of 2019, in the face of overwhelming liability from pending wildfire litigation, PG&E and its parent filed for bankruptcy. *In re PG&E Corporation*, Case No. 19-30088 and *In re Pacific Gas and Electric Company*, Case No. 19-30089 (N.D. Cal. Bankr. 2019). The bankruptcy trustee appointed a Torts Claimants' Committee to represent persons with tort claims, largely wildfire victims, in the bankruptcy.

Lieff Cabraser represented a member of the Committee who lost her father in the Camp Fire, advocating for fire victims to be treated fairly and equitably in the bankruptcy. We helped negotiate a settlement with PG&E of $13.5 billion to compensate fire victims for their losses. Our firm also served on the Trust Oversight Committee that has monitored and assisted the Trustee in administering the gargantuan and complex claims process.

***CAMP FIRE CASES*, JCCP NO. 4995 (CAL. SUPR. COURT)**

Lieff Cabraser represented the family of Ernest Francis "Ernie" Foss, beloved father and musician, who was killed in the November 2018 Camp Fire, the deadliest and most destructive wildfire in modern California history. The fire broke out in Northern California near Chico in early November 2018 and quickly grew to massive size, affecting over 140,000 acres and killing at least 80 people, destroying nearly 14,000 homes and nearly obliterating the town of Paradise, and causing the evacuation of over 50,000 area residents.

In addition, Lieff Cabraser represented plaintiffs in a class action lawsuit as well as hundreds of individual suits filed against PG&E for the devastating property damage, economic losses, and disruption to homes, businesses, and livelihoods caused by the Camp wildfire. The lawsuits alleged the Camp Fire was started by unsafe electrical infrastructure owned, operated, and improperly maintained by PG&E. The plaintiffs further claimed that despite PG&E's knowledge that electrical infrastructure was aging, unsafe, and vulnerable to environmental conditions, PG&E failed to take action that could have prevented the deadliest and most destructive wildfire in California's history.

***IN RE PG&E CORPORATION*, CASE NO. 19-30088, AND *IN RE PACIFIC GAS AND ELECTRIC COMPANY*, CASE NO. 19-30089 (U.S. BANKRUPTCY COURT, N.D. CAL. – SAN FRANCISCO DIVISION)**

In January of 2019, in the face of overwhelming liability from pending wildfire litigation, including the North Bay and Camp Fire JCCPs, PG&E Corporation and Pacific Gas and Electric Company filed voluntary petitions for relief under Chapter 11 of the federal Bankruptcy Code. As a result of the bankruptcy filing, the Camp Fire and

North Bay Fires proceedings in state court were stayed. In February 2019, Andrew R. Vara, the Acting United States Trustee for Region 3, appointed an official committee of tort claimants to represent the interests and act on behalf of all persons with tort claims against PG&E, including wildfire victims in the bankruptcy proceedings. Lieff Cabraser represented Angela Foss Loo as a member of the Official Committee of Tort Claimants.

***FLORIDA TOBACCO CASES/IN RE ENGLE CASES*, NO. 3:09-CV-10000-J-32 JBT (M.D. FL.)**

Lieff Cabraser represented Florida smokers, and the spouses and families of loved ones who died, in litigation against the tobacco companies for their 50-year conspiracy to conceal the hazards of smoking and the addictive nature of cigarettes. On February 25th, 2015, a settlement was announced of more than 400 Florida smoker lawsuits against the major cigarette companies Philip Morris USA Inc., R.J. Reynolds Tobacco Company, and Lorillard Tobacco Company. As a part of the settlement, the companies had to pay $100 million to injured smokers or their families. This was the first settlement ever by the cigarette companies of smoker cases on a group basis.

Lieff Cabraser attorneys tried over 20 cases in Florida federal court against the tobacco industry on behalf of individual smokers or their estates, and with co-counsel obtained over $105 million in judgments for our clients. Two of the jury verdicts Lieff Cabraser attorneys obtained in the litigation were ranked by The National Law Journal as among the Top 100 Verdicts of 2014.

In 2020, the Eleventh Circuit found in favor of the plaintiff in one of our Engle progeny tobacco injury lawsuits against cigarette manufacturer Philip Morris, holding that a punitive damages award of over $20 million was constitutionally appropriate and not unconstitutionally excessive as Philip Morris had repeatedly argued after losing the original injury trial in 2013. In addition to defeating Philip Morris' challenges in that case, we briefed, argued, and secured other trial verdicts against the tobacco industry in the 11th Circuit, including a $41 million verdict against R.J. Reynolds that was the largest ever rendered against a tobacco company in federal court.

***GENERAL MOTORS IGNITION SWITCH DEFECT INJURY LAWSUITS*, MDL NO. 2543 (S.D.N.Y.)**

Lieff Cabraser served as Co-Lead Counsel for plaintiffs in multidistrict litigation involving economic loss and personal injury/wrongful death (PI/WD) cases arising out of GM's manufacture and sale of vehicles with defective ignition switches and other defects. Our firm had primary co-responsibility for consumer claims, representing five nationwide classes of GM vehicle owners and lessees whose claims resolved for $121 million, plus fees, in a settlement granted final approval by Judge Jesse M. Furman, S.D.N.Y., on December 18, 2020. Judge Furman also oversaw a series of bellwether PI/WD trials, as well as litigation resulting in multiple individual and group PI/WD settlements.

***IN RE: ABILIFY (ARIPIPRAZOLE) PRODUCTS LIABILITY LITIGATION*, MDL NO. 2734 (N.D. FLA.)**

We represented clients who incurred crippling financial losses and pain and suffering from compulsive gambling caused by the drug Abilify. In May 2016 the FDA warned that Abilify can lead to damaging compulsive behaviors, including uncontrollable gambling. The gambling addictions could be so severe that patients lost their homes, livelihoods, and marriages. The $6+ billion a year-earning drug was prescribed for nearly 9 million patients in 2014 alone. In December 2016, Lieff Cabraser partner Lexi Hazam was appointed by the court overseeing the nationwide Abilify gambling injuries MDL litigation to the Plaintiffs Executive Committee and as Co-Chair of the Science and Expert Sub-Committee for the nationwide Abilify MDL litigation. The Court issued a Daubert decision admitting almost all of Plaintiffs' experts in 2018, and on the eve of bellwether trials, the parties entered settlement negotiations. Almost all of the Abilify cases have been resolved through settlement.

RISPERDAL LITIGATION

In 2013, Johnson & Johnson and its subsidiary Janssen Pharmaceuticals, the manufacture of the antipsychotic prescription drugs Risperdal and Invega, entered into a $2.2 billion settlement with the U.S. Department of Justice for improperly promoting the drugs. The government alleged that J&J and Janssen knew Risperdal triggered the production of prolactin, a hormone that stimulates breast development (gynecomastia) and milk production. Lieff Cabraser represented parents whose sons developed abnormally large breasts while prescribed Risperdal and Invega in lawsuits charging that Risperdal was a defective and dangerous prescription drug and seeking monetary damages for the mental anguish and physical injuries the young men suffered. The cases were settled favorably in 2018.

***BENICAR LITIGATION*, MDL NO. 2606 (D. N.J.)**

Lieff Cabraser represented patients who experienced substantial side-effects from the blood pressure medication Benicar, including substantial weight loss, severe gastrointestinal problems, and life-threatening conditions, in litigation against Japan-based Daiichi Sankyo, Benicar's manufacturer, and Forest Laboratories, which marketed Benicar in the U.S. The complaints alleged that Benicar was insufficiently tested and not accompanied by adequate instructions and warnings to apprise consumers of the full risks and side effects associated with its use. Lieff Cabraser served on the Plaintiffs' Steering Committee for the nationwide Benicar MDL litigation and Lieff Cabraser partner Lexi J. Hazam served as Co-Chair of the Benicar MDL Plaintiffs' Science and Experts Committee. In August 2017, the parties reached a settlement valued at $300 million covering approximately 2,300 Benicar injury cases in both state and federal U.S. courts.

***DEFECTIVE HIP IMPLANT CASES/STRYKER METAL HIP IMPLANT LITIGATION*, MDL NO. 2441 (D. MINN.)**

Lieff Cabraser represented 60+ hip replacement patients nationwide who received the recalled Stryker Rejuvenate and ABG II modular hip implant systems, served on the Plaintiffs' Lead Counsel Committee in the multidistrict litigation, and successfully secured settlements that included a base payment of $300,000 to patients that received the defective hip systems. Stryker's liability under the settlement was not capped; the total amount of payments under the settlement far exceeded $1 billion dollars.

***DEFECTIVE HIP IMPLANT CASES/DEPUY METAL HIP IMPLANTS LITIGATION*, MDL NO. 2244 (N.D. TEX.)**

Lieff Cabraser represented approximately 200 patients nationwide who received defective ASR XL Acetabular and ASR Hip Resurfacing systems manufactured by DePuy Orthopedics, a unit of Johnson & Johnson which were implanted in approximately 40,000 U.S. patients. The complaints alleged that DePuy was aware its implants were failing at a notably high rate, yet continued to manufacture and sell the devices. Serving on the litigation's Plaintiffs' Steering Committee, our firm helped secure over $2.5 billion in settlement payments to individual implant recipients, including base awards to each of $250,000.

YAZ AND YASMIN LITIGATION

Lieff Cabraser represented women prescribed Yasmin and Yaz oral contraceptives who suffered blood clots, deep vein thrombosis, strokes, and heart attacks, as well as the families of loved ones who died suddenly while taking these medications. The complaints alleged that Yaz and Yasmin manufacturer Bayer failed to adequately warn patients and physicians of the increased risk of serious adverse effects from Yasmin and Yaz. The complaints also charged that these oral contraceptives posed a greater risk of serious side effects than other widely available birth control drugs. The litigation led to settlements of 7,660 claims with a total value of $1.6 billion.

***IN RE NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY LITIGATION*, MDL NO. 2419 (D. MASS.)**

Lieff Cabraser represented patients injured or killed by a nationwide 2012 fungal meningitis outbreak after more than 14,000 patients across the U.S. were injected with a contaminated epidural steroid back pain medication manufactured and sold by The New England Compounding Center in Framingham, Massachusetts. Nearly 800 patients across multiple clinics developed fungal meningitis, and more than 70 of those patients died. Lieff Cabraser served on the Plaintiffs' Steering Committee in the multi-district litigation, and our attorneys acted as federal-state liaison counsel. In May 2015, the U.S. Bankruptcy Court approved a $200 million partial settlement for victims of the outbreak.

***IN RE TOYOTA MOTOR CORP. UNINTENDED ACCELERATION MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION*, MDL NO. 2151 (C.D. CAL.)**

Lieff Cabraser serves as Co-Lead Counsel for the plaintiffs in the Toyota injury cases in federal court representing individuals injured, and families of loved ones who died, in Toyota unintended acceleration accidents. The complaints charge that Toyota took no action despite years of complaints that its vehicles accelerated suddenly and could not be stopped by proper application of the brake pedal. The complaints further allege that Toyota breached its duty to manufacture and sell safe automobiles by failing to incorporate a brake override system and other readily available safeguards that could have prevented unintended acceleration.

In December 2013, Toyota announced its intention to begin to settle the cases. In 2014, Lieff Cabraser played a key role in turning Toyota's intention into a reality through assisting in the creation of an innovative resolution process that has settled scores of cases in streamlined, individual conferences. The settlements are confidential. Before Toyota agreed to settle the litigation, plaintiffs' counsel overcame significant hurdles in the challenging litigation. In addition to defeating Toyota's motion to dismiss the litigation, Lieff Cabraser and co-counsel demonstrated that the highly-publicized government studies that denied unintended acceleration, or attributed it to mechanical flaws and driver error, were flawed and erroneous.

***IN RE ACTOS (PIOGLITAZONE) PRODUCTS LIABILITY LITIGATION*, MDL NO. 2299 (W.D. LA.)**

Lieff Cabraser represented 90 diabetes patients who developed bladder cancer after exposure to the prescription drug pioglitazone, sold as Actos by Japan-based Takeda Pharmaceutical Company and its American marketing partner, Eli Lilly. We served on the Plaintiffs' Steering Committee in the Actos MDL. In 2014, Lieff Cabraser served on the trial team in the case of *Allen v. Takeda*, working closely with lead trial counsel in federal court in Louisiana. The jury awarded $9 billion in punitive damages, finding that Takeda and Lilly failed to adequately warn about the bladder cancer risks of Actos and had acted with wanton and reckless disregard for patient safety. The trial judge reduced the punitive damage award but upheld the jury's findings of misconduct, and ruled that a multiplier of 25 to 1 for punitive damages was justified.

In April 2015, Takeda agreed to resolve all timely bladder cancer claims via a settlement valued at $2.4 billion. Average payments of about $250,000 per person were increased for those with more severe injuries.

SIMPLY THICK LITIGATION

Lieff Cabraser represented parents whose infants died or suffered injuries linked to Simply Thick, a thickening agent for adults that was promoted to parents, caregivers, and health professional for use by infants to assist with swallowing. The individual lawsuits alleged that Simply Thick when fed to infants caused necrotizing enterocolitis (NEC), a life-threatening condition characterized by the inflammation and death of intestinal tissue. In 2014, the litigation was resolved on confidential terms.

MEDTRONIC INFUSE LITIGATION

Lieff Cabraser represented patients who suffered serious injuries from the off-label use of the Infuse bone graft, manufactured by Medtronic Inc. The FDA approved Infuse for only one type of spine surgery, the anterior lumbar fusion. Many patients, however, received an off-label use of Infuse and were never informed of the off-label nature of the surgery. Serious complications associated with Infuse included uncontrolled bone growth and chronic pain from nerve injuries. In 2014, the litigation was settled on confidential terms.

WRIGHT MEDICAL HIP LITIGATION

The Profemur-Z system manufactured by Wright Medical Technology consisted of three separate components: a femoral head, a modular neck, and a femoral stem. Prior to 2009, Profemur-Z hip system included a titanium modular neck adapter and stem which was implanted in 10,000 patients. Lieff Cabraser represented patients whose Profemur-Z hip implant fractured, requiring a revision surgery. In 2013 and 2014, the litigation was resolved on confidential terms.

ADVANCED MEDICAL OPTICS COMPLETE MOISTUREPLUS LITIGATION

Lieff Cabraser represented consumers nationwide in personal injury lawsuits filed against Advanced Medical Optics arising out of the May 2007 recall of AMO's Complete MoisturePlus Multi-Purpose Contact Lens Solution. The product was recalled due to reports of a link between a rare but serious eye infection, Acanthamoeba keratitis, caused by a parasite and use of AMO's contact lens solution. Though AMO promoted Complete MoisturePlus Multi-Purpose as "effective against the introduction of common ocular microorganisms," the complaints charged that AMO's lens solution was ineffective and vastly inferior to other multipurpose solutions on the market. In many cases, patients were forced to undergo painful corneal transplant surgery to save their vision and some lost all or part of their vision permanently. The patients represented by Lieff Cabraser resolved their cases with AMO on favorable, confidential terms.

***IN RE ZIMMER DUROM CUP PRODUCT LIABILITY LITIGATION*, MDL NO. 2158 (D. N.J.)**

Lieff Cabraser served as Co-Liaison Counsel for patients nationwide injured by the defective Durom Cup manufactured by Zimmer Holdings. First sold in the U.S. in 2006, Zimmer marketed its 'metal-on-metal' Durom Cup implant as providing a greater range of motion and less wear than traditional hip replacement components. In July 2008, Zimmer announced the suspension of Durom sales. The complaints charged that the Durom cup was defective and led to the premature failure of the implant. In 2011 and 2012, the patients represented by Lieff Cabraser settled their cases with Zimmer on favorable, confidential terms.

GOL AIRLINES FLIGHT 1907 AMAZON CRASH

Lieff Cabraser served as Plaintiffs' Liaison Counsel and represented over twenty families whose loved ones died in the Gol Airlines Flight 1907 crash. On September 29, 2006, a brand-new Boeing 737-800 operated by Brazilian air carrier Gol plunged into the Amazon jungle after colliding with a smaller plane owned by the American company ExcelAire Service, Inc. None of the 149 passengers and six crew members on board the Gol flight survived the accident.

The complaint charged that the pilots of the ExcelAire jet were flying at an incorrect altitude at the time of the collision, failed to operate the jet's transponder and radio equipment properly, and failed to maintain communication with Brazilian air traffic control in violation of international civil aviation standards. If the pilots of the ExcelAire aircraft had followed these standards, the complaint charged that the collision would not have occurred.

At the time of the collision, the ExcelAire aircraft's transponder, manufactured by Honeywell, was not functioning. A transponder transmits a plane's altitude and operates its automatic anti-collision system. The complaint charged that Honeywell shared responsibility for the

tragedy because it defectively designed the transponder on the ExcelAire jet, and failed to warn of dangers resulting from foreseeable uses of the transponder. The cases settled after they were sent to Brazil for prosecution.

***BLOOD FACTOR VIII AND FACTOR IX LITIGATION*, MDL NO. 986 (N.D. IL.)**

Working with counsel in Asia, Europe, Central and South America and the Middle East, Lieff Cabraser represented over 1,500 hemophiliacs worldwide, or their survivors and estates, who contracted HIV and/or Hepatitis C (HCV), and Americans with hemophilia who contracted HCV, from contaminated and defective blood factor products produced by American pharmaceutical companies. In 2004, Lieff Cabraser was appointed Plaintiffs' Lead Counsel of the "second generation" Blood Factor MDL litigation presided over by Judge Grady in the Northern District of Illinois. The case was resolved through a global settlement signed in 2009.

***LUISI V. MEDTRONIC,* NO. 07 CV 4250 (D. MINN.)**

Lieff Cabraser represented over seven hundred heart patients nationwide who were implanted with recalled Sprint Fidelis defibrillator leads manufactured by Medtronic Inc. Plaintiffs charged that Medtronic had misrepresented the safety of the Sprint Fidelis leads and a defect in the device triggered their receiving massive, unnecessary electrical shocks. A settlement of the litigation was announced in October 2010.

***IN RE YAMAHA MOTOR CORP. RHINO ATV PRODUCTS LIABILITY LITIGATION,* MDL NO. 2016 (W.D. KY.)**

Lieff Cabraser served as Plaintiffs' Lead Counsel in the litigation in federal court and Co-Lead Counsel in coordinated California state court litigation arising out of serious injuries and deaths in rollover accidents involving the Yamaha Rhino. The complaints charged that the Yamaha Rhino contained numerous design flaws, including the failure to equip the vehicles with side doors, which resulted in repeated broken or crushed legs, ankles, or feet for riders. Plaintiffs alleged also that the Yamaha Rhino was unstable due to a narrow track width and high center of gravity leading to rollover accidents that killed and/or injured scores of persons across the nation.

On behalf of victims and families of victims and along with the Center for Auto Safety, and the San Francisco Trauma Foundation, Lieff Cabraser advocated for numerous safety changes to the Rhino in reports submitted to the U.S. Consumer Product Safety Commission (CPSC). On March 31, 2009, the CPSC, in cooperation with Yamaha Motor Corp. U.S.A., announced a free repair program for all Rhino 450, 660, and 700 models to improve safety, including the addition of spacers and removal of a rear-only anti-sway bar.

***IN RE RENU WITH MOISTURELOC CONTACT LENS SOLUTION PRODUCTS LIABILITY LITIGATION*, MDL NO. 1785 (D. S.C.)**

Lieff Cabraser served on the Plaintiffs' Executive Committee in federal litigation arising out of Bausch & Lomb's 2006 recall of its ReNu With MoistureLoc contact lens solution. Consumers who developed Fusarium keratitis, a rare and dangerous fungal eye infection, as well as other serious eye infections, alleged the lens solution was defective. Some consumers were forced to undergo painful corneal transplant surgery to save their vision; others lost all or part of their vision permanently. The litigation was resolved under favorable, confidential settlements with Bausch & Lomb.

***IN RE VIOXX PRODUCTS LIABILITY LITIGATION*, MDL NO. 1657 (E.D. LA.)**

Lieff Cabraser represented patients injured or killed after using the arthritis and pain medication Vioxx manufactured by Merck. Our clients alleged Merck falsely promoted the safety of Vioxx, and failed to disclose the full range of the drug's dangerous side effects. Lieff Cabraser partner Elizabeth J. Cabraser served on the Plaintiffs' Steering Committee in the federal multidistrict litigation, sharing responsibility for all pretrial discovery of Vioxx

cases in federal court and pursuing all settlement options with Merck. In August 2006, Lieff Cabraser served as Co-Counsel in *Barnett v. Merck*, tried in federal court in New Orleans; the jury in the case found that Vioxx caused the plaintiff's heart attack, and that Merck's conduct justified an award of punitive damages. In November 2007, Merck announced it had entered into an agreement with the Executive Committee of the Plaintiffs' Steering Committee as well as representatives of plaintiffs' counsel in state coordinated proceedings that led to a settlement fund of $4.85 billion for qualifying claims.

***IN RE BAYCOL PRODUCTS LITIGATION,* MDL NO. 1431 (D. MINN.)**

Baycol was one of a group of drugs called statins, intended to reduce cholesterol. In August 2001, Bayer A.G. and Bayer Corporation, the manufacturers of Baycol, withdrew the drug from the worldwide market based upon reports that Baycol was associated with serious side effects and linked to the deaths of over 100 patients worldwide. In the federal multidistrict litigation, Lieff Cabraser served as a member of the Plaintiffs' Steering Committee (PSC) and the Executive Committee of the PSC. In addition, Lieff Cabraser represented approximately 200 Baycol patients who suffered injuries or family members of patients who died allegedly as a result of ingesting Baycol. In these cases, our clients reached confidential favorable settlements with Bayer.

***IN RE BEXTRA/ CELEBREX MARKETING SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION*, MDL NO. 1699 (N.D. CAL.)**

Lieff Cabraser served as Plaintiffs' Liaison Counsel and Elizabeth J. Cabraser chaired the Plaintiffs' Steering Committee (PSC) charged with overseeing all personal injury and consumer litigation in federal courts nationwide arising out of the sale and marketing of the COX-2 inhibitors Bextra and Celebrex, manufactured by Pfizer, Inc. and its predecessor companies Pharmacia Corporation and G.D. Searle, Inc.

Under the global resolution of the multidistrict tort and consumer litigation announced in October 2008, Pfizer paid over $800 million to claimants, including over $750 million to resolve death and injury claims.

In a report adopted by the Court on common benefit work performed by the PSC, the Special Master stated:

"[L]eading counsel from both sides, and the attorneys from the PSC who actively participated in this litigation, demonstrated the utmost skill and professionalism in dealing with numerous complex legal and factual issues. The briefing presented to the Special Master, and also to the Court, and the development of evidence by both sides was exemplary. The Special Master particularly wishes to recognize that leading counsel for both sides worked extremely hard to minimize disputes, and when they arose, to make sure that they were raised with a minimum of rancor and a maximum of candor before the Special Master and Court."

***MRAZ V. DAIMLERCHRYSLER*, NO. BC 332487 (CAL. SUPR. CT.)**

In March 2007, the jury returned a $54.4 million verdict, including $50 million in punitive damages, against DaimlerChrysler for intentionally failing to cure a known defect in millions of its vehicles that led to the death of Richard Mraz, a young father. Mr. Mraz suffered fatal head injuries when the 1992 Dodge Dakota pickup truck he had been driving at his work site ran him over after he exited the vehicle believing it was in park. The jury found that a defect in the Dodge Dakota's automatic transmission, called a park-to-reverse defect, played a substantial factor in Mr. Mraz's death and that DaimlerChrysler was negligent in the design of the vehicle for failing to warn of the defect and then for failing to adequately recall or retrofit the vehicle.

In March 2008, a Louisiana-state jury found DaimlerChrysler liable for the death of infant Collin Guillot and injuries to his parents Juli and August Guillot and their then 3-year-old daughter, Madison. The jury returned a unanimous verdict of $5,080,000 in compensatory damages. The jury found that a defect in the Jeep Grand Cherokee's transmission, called a park-to-reverse defect, played a substantial factor in Collin Guillot's death and the severe injuries suffered by Mr. and Mrs. Guillot and their daughter. Lieff Cabraser served as plaintiffs' co-counsel in the trial.

***IN RE GUIDANT IMPLANTABLE DEFIBRILLATORS PRODUCTS LIABILITY LITIGATION*, MDL NO. 1708 (D. MINN.)**

Lieff Cabraser served as Plaintiffs' Co-Lead Counsel in litigation in federal court arising out of the recall of Guidant cardiac defibrillators implanted in patients because of potential malfunctions in the devices. At the time of the recall, Guidant admitted it was aware of 43 reports of device failures, and two patient deaths. Guidant subsequently acknowledged that the actual rate of failure might have been higher than the reported rate and that the number of associated deaths might have been underreported since implantable cardio-defibrillators are not routinely evaluated after death. In January 2008, the parties reached a global settlement of the action. Guidant's settlements of defibrillator-related claims totalled $240 million.

FEN-PHEN ("DIET DRUGS") LITIGATION

Lieff Cabraser represented individuals who suffered injuries from the "Fen-Phen" diet drugs fenfluramine (sold as Pondimin) and/or dexfenfluramine (sold as Redux), and served as counsel for the plaintiff who filed the first nationwide class action lawsuit against the diet drug manufacturers alleging a widespread failure to adequately warn physicians and consumers of the risks associated with the drugs. In *In re Diet Drugs (Phentermine/ Fenfluramine/Dexfenfluramine) Products Liability Litigation*, MDL No. 1203 (E.D. Pa.), the Court appointed Elizabeth J. Cabraser to the Plaintiffs' Management Committee which organized and directed the Fen-Phen diet drugs litigation in federal court.

In August 2000, the Court approved a $4.75 billion settlement offering both medical monitoring relief for persons exposed to the drug and compensation for persons with qualifying damage. Lieff Cabraser represented over 2,000 persons that suffered valvular heart disease, pulmonary hypertension or other problems (such as needing echocardiogram screening for damage) due to and/or following exposure to Fen-Phen, and obtained more than $350 million in total for our individual clients.

COMAIR CRJ-100 COMMUTER FLIGHT CRASH IN LEXINGTON, KENTUCKY

A Bombardier CRJ-100 commuter plane operated by Comair, Inc., a subsidiary of Delta Air Lines, crashed on August 27, 2006 shortly after takeoff at Blue Grass Airport in Lexington, Kentucky, killing 47 passengers and two crew members. The aircraft attempted to take off from the wrong runway. The families represented by Lieff Cabraser obtained substantial economic recoveries in a settlement of the case.

HELIOS AIRWAYS FLIGHT 522 ATHENS, GREECE CRASH

On August 14, 2005, a Boeing 737 operating as Helios Airways flight 522 crashed north of Athens, Greece, resulting in the deaths of all passengers and crew. The aircraft was heading from Larnaca, Cyprus to Athens International Airport when ground controllers lost contact with the pilots, who had radioed in to report problems with the air conditioning system. Press reports about the official investigation indicate that a single switch for the pressurization system on the plane was not properly set by the pilots, and eventually both were rendered unconscious, along with most of the passengers and cabin crew.

Lieff Cabraser represented the families of several victims, and filed complaints alleging that a series of design defects in the Boeing 737-300 contributed to the pilots' failure to understand the nature of the problems they were facing. Foremost among those defects was a confusing pressurization warning "horn" which uses the same sound that alerts pilots to improper takeoff and landing configurations. The families represented by Lieff Cabraser obtained substantial economic recoveries in a settlement of the case.

SULZER HIP AND KNEE PROSTHESIS LIABILITY LITIGATION

In December 2000, Sulzer Orthopedics, Inc., announced the recall of approximately 30,000 units of its Inter-Op Acetabular Shell Hip Implant, followed in May 2001 with a notification of failures of its Natural Knee II Tibial Baseplate Knee Implant. Lieff Cabraser served as Court-appointed Plaintiffs' Liaison Counsel and Co-Lead Counsel in coordinated litigation in California state court over defective hip and knee implants, *In re Hip Replacement Cases*, JCCP 4165. In the federal litigation, *In re 2002 Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation*, MDL No. 1410, after objecting to the initial settlement on behalf of our clients, Lieff Cabraser played a significant role in negotiating a revised global settlement of the litigation valued at more than $1 billion.

The revised settlement, approved by the Court in May 2002, provided patients with defective implants almost twice the cash payment as under the initial settlement.

***IN RE TELECTRONICS PACING SYSTEMS INC., ACCUFIX ATRIAL "J" LEADS PRODUCTS LIABILITY LITIGATION*, MDL NO. 1057 (S.D. OHIO)**

Lieff Cabraser served on the Plaintiffs' Steering Committee in a nationwide products liability action alleging that defendants placed into the stream of commerce defective pacemaker leads. In April 1997, the District Court re-certified a nationwide class of "J" Lead implantees with subclasses for the claims of medical monitoring, negligence and strict product liability. A summary jury trial, utilizing jury instructions and interrogatories designed by Lieff Cabraser, occurred in February 1998. A partial settlement was approved thereafter by the District Court but reversed by the Court of Appeals. In March 2001, the District Court approved a renewed settlement that included a $58 million fund to satisfy all past, present and future claims by patients for their medical care, injuries, or damages arising from the leads.

***CRAFT V. VANDERBILT UNIVERSITY, CIV.*, NO. 3-94-0090 (M.D. TENN.)**

Lieff Cabraser served as Lead Counsel for a certified class of over 800 pregnant women and their children who were intentionally fed radioactive iron isotopes without consent while receiving prenatal care at the Vanderbilt University hospital as part of a study on iron absorption during pregnancy. The women were not informed of the nature and risks of the study. Instead, they were told that the solution they were fed was a "vitamin cocktail." In the 1960's, Vanderbilt conducted a follow-up study to determine the health effects of the plaintiffs' prior radiation exposure. Throughout the follow-up study, Vanderbilt concealed from plaintiffs the fact that they had been involuntarily exposed to radiation, and that the purpose of the follow-up study was to determine whether there had been an increased rate of childhood cancers among those exposed in utero. Vanderbilt also did not inform plaintiffs of the results of the follow-up study, which revealed a disproportionately high incidence of cancers among the children born to the women fed the radioactive iron.

The facts surrounding the administration of radioactive iron to the pregnant women and their children in utero only came to light as a result of U.S. Energy Secretary Hazel O'Leary's 1993 disclosures of government-sponsored human radiation experimentation during the Cold War. Defendants' attempts to dismiss the claims and decertify the class were unsuccessful. 18 F. Supp.2d 786 (M.D. Tenn. 1998). The case was settled in July 1998 for a total of $10.3 million and a formal apology from Vanderbilt.

MULTI-STATE TOBACCO LITIGATION

Lieff Cabraser represented the Attorneys General of Massachusetts, Louisiana and Illinois, several additional states, and 21 cities and counties across California, in litigation against Philip Morris, R.J. Reynolds and other cigarette manufacturers. The suits were part of the landmark $206 billion settlement announced in November 1998 between the tobacco industry and the states' attorneys general. The states, cities and counties sought both to recover the public costs of treating smoking-related diseases and require the tobacco industry to undertake extensive modifications of its marketing and promotion activities in order to reduce teenage smoking. In California alone, Lieff Cabraser's clients were awarded an estimated $12.5 billion to be paid through 2025.

***IN RE COPLEY PHARMACEUTICAL, INC., "ALBUTEROL" PRODUCTS LIABILITY LITIGATION*, MDL NO. 1013 (D. WYO.)**

Lieff Cabraser served on the Plaintiffs' Steering Committee in a class action lawsuit against Copley Pharmaceutical, which manufactured Albuterol, a bronchodilator prescription pharmaceutical. Albuterol was the subject of a nationwide recall in January 1994 after a microorganism was found to have contaminated the solution, allegedly causing numerous injuries including bronchial infections, pneumonia, respiratory distress and, in some cases, death. In October 1994, the District Court certified a nationwide class on liability issues. *In re Copley Pharmaceutical*, 161 F.R.D. 456 (D. Wyo. 1995). In November 1995, the District Court approved a $150 million settlement of the litigation.

Additional Personal Injury Case Information is available on our website at lieffcabraser.com

SECURITIES AND FINANCIAL FRAUD

Corporate misconduct, securities fraud, and other related financial fraud cause investors to lose billions every year. Lieff Cabraser's Securities and Financial Fraud team is committed to holding the parties responsible for financial fraud accountable. Over the last 50 years, we have developed unparalleled experience, expertise, and the resources necessary for achieving successes in meaningful and effective complex litigation against the world's largest corporations.

We have successfully represented the nation's largest public pension funds, Taft-Hartley funds, private institutional investors, and high net worth individual investors in securities and financial fraud cases. We work to obtain meaningful recoveries for our clients and to secure meaningful governance reforms at the companies in which they invest.

We take a highly-tailored approach to investigating and prosecuting financial fraud. After thorough research and a deep analysis of the facts, we determine feasible litigation options, conduct loss and damage calculations, and develop litigation strategies that respond to the unique circumstances of each client and case. Our track record of successfully litigating financial fraud cases spans five decades, including trying securities fraud class actions through to verdict. We are one of few plaintiffs' law firms anywhere that possess this experience.

Representative Current Cases

***EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND V. ELON MUSK, ET AL.*, 2024-0631 (DEL CH.)**

Lieff Cabraser represents Plaintiff the Employees' Retirement System of Rhode Island in this recently-filed stockholder derivative action against Elon Musk and certain current and former members of the Board of Directors of Tesla, Inc. ("Tesla"). The action alleges breaches of fiduciary duties including: (a.) unlawful stock sales in connection with Elon Musk's purchase of Twitter, Inc. ("Twitter," rebranded as "X"); (b.) usurpation of corporate opportunity properly belonging to Tesla by investment in X.AI, an artificial intelligence company; (c.) diversion of Tesla's employees to work for Twitter and X.AI; (d.) breaches of contractual obligations established by Tesla's Code of Business Ethics ("Code"); (e.) bad faith implementation and oversight regarding Tesla's Code; and (f.) bad faith implementation and oversight regarding the 2018 Consent Decree with the Securities Exchange Commission that required Musk to obtain Tesla's preapproval on tweets relating to his disposition of Tesla stock.

***CITY OF HOLLYWOOD FIREFIGHTERS' PENSION SYSTEM V. WELLS FARGO & COMPANY ET AL.*, 4:23-CV-02445-JST (N.D. CAL.)**

Lieff Cabraser serves as Additional Counsel for Plaintiff the City of Hollywood Firefighters' Pension System in this recent shareholder derivative action alleging that certain directors of Wells Fargo breached their fiduciary duty by failing to comply with explicit regulatory requirements established by federal regulators in multiple consent orders since 2018, resulting in further consent orders from the Consumer Financial Protection Bureau and the Office of the Comptroller of Currency in September 2021 and December 2022.

***DISCOVER FINANCIAL SERVICES SECURITIES CLASS ACTION LITIGATION*, NO. 1:23-CV-06788 (N.D. ILL.)**

Lieff Cabraser is Co-Lead Counsel for a proposed class of injured investors in securities class litigation against Discover Financial Services ("DFS"), the financial services company that owns and operates Discover Bank. The action, co-led by five New York City pension funds, alleges that DFS made false or misleading statements concealing that the Company's risk management and compliance protocols were inadequate, and that DFS did not meet industry standards for servicing student loans, did not categorize credit card accounts correctly, and failed to curb its surging credit card delinquency rate. When these issues were revealed to the marketplace, the company's total market capitalization sank by more than $1 billion, harming investors. The court will consider arguments on the sufficiency of plaintiffs' claims in 2024.

MFS SERIES TRUST I, OBO MFS VALUE FUND, ET AL. V. FIRSTENERGY CORP., ET AL., NO. 2:21-CV-05839-ALM-KAJ (S.D.N.Y.)

Lieff Cabraser represents certain MFS funds and trusts in this individual action against FirstEnergy Corp.

("FirstEnergy") and certain of its senior executives for violations of the Securities Exchange Act of 1934 (the "Exchange Act"). The action arises from defendants' misstatements and omissions that concealed their participation in a massive bribery and money laundering scheme to pay tens of millions of dollars to Ohio public officials in exchange for legislative and regulatory favors, including a billion-dollar relief package called House Bill 6 ("HB 6"), that benefited the Company. As the truth about defendants' fraud was revealed, FirstEnergy lost approximately $10 billion in market capitalization. The parties are currently engaged in discovery.

DANSKE BANK A/S SECURITIES LITIGATION

Lieff Cabraser, together with co-counsel, represents a large coalition of institutional investors, including state and government pension and treasury systems, in litigation pending in Denmark against Danske Bank A/S ("Danske"). The litigation arises from Danske's failure to disclose that its reported financial performance was inflated by illegal sources of income and that it was subject to significant risks as a result of such business activities. In late 2022, Danske pleaded guilty to defrauding American banks and was fined $2 billion by the U.S. Justice Department. Danske also agreed to pay the U.S. Securities and Exchange Commission $413 million to settle charges that it misled investors about its compliance with anti-money laundering requirements. The litigation is ongoing.

IN RE FOX CORPORATION DERIVATIVE LITIGATION, C.A. NO. 2023-0418-JTL (DEL. CH.)

Lieff Cabraser serves as Co-Lead Counsel on behalf of Co-Lead Plaintiffs the New York City Funds and the State of Oregon in this shareholder derivative action against certain directors and officers of Fox Corporation. In connection with Fox News' propagation of unfounded, defamatory conspiracy theories concerning the U.S. presidential election of 2020, the action alleges breach of fiduciary duties for: (1) the adoption of an illegal business model by which Fox News pursues profits by committing actionable defamation; (2) the lack of good faith efforts to establish systems or practices for minimizing, mitigating, or monitoring defamation risk; and (3) inaction in the face of red flags of defamation risk.

***BLACKROCK GLOBAL ALLOCATION FUND, INC., ET AL. V. PERRIGO COMPANY PLC, ET AL.*, NO. 2:20-CV-4748 (D.N.J.)**

Lieff Cabraser represents certain funds and accounts of BlackRock in a direct (non-class) action against Perrigo Company plc and former senior executives for violations of the Securities Exchange Act of 1934. Plaintiffs allege defendants concealed from investors that (contrary to their public statements) Perrigo was engaged in a price-fixing scheme with respect to generic drugs, was impacted by pricing pressures in the generic pharmaceuticals industry, and had failed to successfully integrate Omega Pharma NV, Perrigo's largest acquisition. The parties have completed fact and expert discovery. In August 2023, the court granted in part and denied in part defendants' motions for summary judgment in the related securities class case. Class plaintiffs recently obtained preliminary approval of a settlement of that case.

***BLACKROCK GLOBAL ALLOCATION FUND, INC., ET AL. V. VALEANT PHARMACEUTICALS INTERNATIONAL, INC., ET AL.*, NO. 3:18-CV-00343 (D.N.J.)**

Lieff Cabraser represents certain funds and accounts of institutional investor BlackRock in a direct (non-class) action against Valeant Pharmaceuticals International, Inc. (n/k/a Bausch Health Companies Inc.) and former senior executives for violations of the Securities Exchange Act of 1934 arising from a scheme to generate revenues through massive price increases for Valeant-branded drugs while concealing the truth of the company's business operations, financial results, and other material facts. The court denied defendants' partial motions to dismiss and the parties have completed discovery.

In May 2023 the court-appointed special master issued reports and recommendations largely denying the parties' respective motions for summary judgment and denying in full defendants' motions to exclude the testimony of certain of plaintiffs' experts. Earlier this year, the court largely adopted the special master's rulings. Lieff Cabraser also represents a number of BlackRock entities in substantively similar litigation in Canada against Valeant and several individual defendants. Fact and expert discovery in those proceedings have concluded, and the parties are preparing for trial (no trial date has yet been set).

SECURITIES AND FINANCIAL FRAUD

Representative Achievements & Successes

STEINHOFF INTERNATIONAL HOLDINGS N.V. SECURITIES LITIGATION

Lieff Cabraser, together with co-counsel, underwrote a vehicle for investor recovery against Steinhoff International Holdings N.V. ("Steinhoff"), a Dutch corporation based in South Africa that sells retail brands of furniture and household goods throughout the world. The vehicle, called the Stichting Steinhoff Investors Losses Foundation, is a Dutch legal entity governed by an independent board of directors. The proceedings sought recovery of investor losses caused by the massive, multi-year accounting fraud at Steinhoff that has wiped out billions of dollars in shareholder value. The litigation resolved via settlement in 2022.

***HOUSTON MUNICIPAL EMPLOYEES PENSION SYSTEM V. BOFI HOLDING, INC., ET AL.*, NO. 3:15-CV-02324-GPC-KSC (S.D. CAL.)**

Lieff Cabraser served as Class Counsel for court-appointed lead plaintiff and Class Representative Houston Municipal Employees Pension System ("HMEPS"), in this securities fraud class action against BofI Holding, Inc. and certain of its senior officers and directors. The action charged defendants with issuing materially false or misleading statements about the Company's loan underwriting standards, system of internal controls, and compliance infrastructure.

On August 24, 2021, Judge Gonzalo P. Curiel certified a class of investors that purchased or otherwise acquired shares of the publicly traded common stock of BofI, as well as purchasers of BofI call options and sellers of BofI put options, between September 4, 2013 and October 13, 2015. In the same order, Judge Curiel appointed HMEPS as Class Representative and Lieff Cabraser as Class Counsel. On October 14, 2022, Judge Curiel granted final approval to a $14.1 million settlement of the litigation. The settlement compares several times more favorably, on a percentage of-loss basis, to the typical securities class settlement for a case of its size.

***IN RE THE BOEING COMPANY DERIVATIVE LITIGATION, CONSOL. C.A.*, NO. 2019-0907-MTZ (DELAWARE CHANCERY COURT)**

Lieff Cabraser served as Court-appointed Co-Lead Counsel representing Co-Lead Plaintiffs the New York State Comptroller Thomas P. DiNapoli, as trustee of the New York State Common Retirement, and the Fire and Police Pension Association of Colorado, in shareholder derivative litigation against current and former officers and directors of The Boeing Company ("Boeing"). Co-Lead Plaintiffs' amended complaint, filed January 2021, alleged that Boeing's officers and directors breached their fiduciary duties to the company by dismantling Boeing's lauded safety-engineering corporate culture in favor of what became a financial-engineering corporate culture. Despite numerous safety-related red flags, the Board and officers failed to monitor the safety of Boeing's aircraft. Ultimately, the Board and officers' consistent disregard for safety resulted in the flawed design of Boeing's 737 MAX, leading to the tragic deaths of 346 passengers and the grounding of all 737 Max aircraft.

On September 8, 2021, Vice Chancellor Morgan T. Zurn upheld Co-Lead Plaintiffs' claim for breach of fiduciary duty against the Company's directors. In February 2022, the court approved a settlement comprised of a $237.5 million monetary payment and extensive corporate governance reforms including a new board director and an ombudsperson program.

***IN RE WELLS FARGO & COMPANY SHAREHOLDER DERIVATIVE LITIGATION,* NO. 3:16-CV-05541 (N.D. CAL.)**

Lieff Cabraser was appointed as Co-Lead Counsel for Lead Plaintiffs FPPACO and The City of Birmingham Retirement and Relief System in this consolidated shareholder derivative action alleging that, since at least 2011, the Board and executive management of Wells Fargo knew or consciously disregarded that Wells Fargo employees were illicitly creating millions of deposit and credit card accounts for their customers, without those customers' consent, as part of Wells Fargo's intense effort to drive up its "cross-selling" statistics. Revelations regarding the scheme, and the defendants' knowledge or blatant disregard of it, deeply damaged Wells Fargo's reputation and cost it millions of dollars in regulatory fines and lost business.

In May and October 2017, the court largely denied Wells Fargo's and the Director and Officer Defendants' motions to dismiss Lead Plaintiffs' amended complaint. In April 2020, U.S. District Judge Jon S. Tigar granted final approval to a settlement of $240 million cash payment, the largest insurer-funded cash settlement of a shareholder derivative action, and corporate governance reforms.

***ARKANSAS TEACHER RETIREMENT SYSTEM V. STATE STREET CORP.,* CASE NO. 11CV10230 (MLW) (D. MASS.)**

Lieff Cabraser served as co-counsel for a nationwide class of institutional custodial clients of State Street, including public pension funds and ERISA plans, who alleged that defendants deceptively charged class members on FX trades done in connection with the purchase and sale of foreign securities. The complaint charged that between 1999 and 2009, State Street consistently incorporated hidden and excessive mark-ups or mark-downs relative to the actual FX rates applicable at the times of the trades conducted for State Street's custodial FX clients.

State Street allegedly kept for itself, as an unlawful profit, the "spread" between the prices for foreign currency available to it in the FX marketplace and the rates it charged to its customers. Plaintiffs sought recovery under Massachusetts' Consumer Protection Law and common law tort and contract theories. On November 2, 2016, U.S. District Senior Judge Mark L. Wolf granted final approval to a $300 million settlement of the litigation.

***IN RE FACEBOOK, INC. IPO SECURITIES AND DERIVATIVE LITIGATION,* MDL NO. 12-2389 (RWS) (S.D.N.Y.)**

Lieff Cabraser was counsel for two individual investor class representatives in the securities class litigation arising under the Private Securities Litigation Reform Act of 1995 (the "PSLRA") concerning Facebook's initial public offering in May 2012. In 2018, the court final approval to a settlement of the litigation.

***HONEYWELL INTERNATIONAL INC. DEFINED CONTRIBUTION PLANS MASTER SAVINGS TRUST. V. MERCK & CO.,* NO. 14-CV 2523-SRC-CLW (S.D.N.Y.); *JANUS BALANCED FUND V. MERCK & CO.*, NO. 14-CV-3019-SRC-CLW (S.D.N.Y.); *LORD ABBETT AFFILIATED FUND V. MERCK & CO.,* NO. 14-CV-2027-SRC-CLW (S.D.N.Y.); *NUVEEN DIVIDEND VALUE FUND (F/K/A NUVEEN EQUITY INCOME FUND), ON ITS OWN BEHALF AND AS SUCCESSOR IN INTEREST TO NUVEEN LARGE CAP VALUE FUND (F/K/A FIRST AMERICAN LARGE CAP VALUE FUND) V. MERCK & CO.,* NO. 14-CV-1709-SRC-CLW (S.D.N.Y.)**

Lieff Cabraser represented certain Nuveen, Lord Abbett, and Janus funds, and two Honeywell International trusts in these individual actions against Merck & Co., Inc. ("Merck") and certain of its senior officers and directors for misrepresenting the cardiovascular safety profile and commercial viability of Merck's purported "blockbuster" drug, Vioxx. The actions charged defendants with violations of the Exchange Act. The action settled on confidential terms.

***NORMAND, ET AL. V. BANK OF NEW YORK MELLON CORP.*, NO. 1:16-CV-00212-LAK-JLC (S.D.N.Y.)**

Lieff Cabraser, together with co-counsel, represented a proposed class of holders of American Depositary Receipts ("ADRs") (negotiable U.S. securities representing ownership of publicly traded shares in a non-U.S. corporation), for which BNY Mellon served as the depositary bank. Plaintiffs alleged that under the contractual agreements underlying the ADRs, BNY Mellon was responsible for "promptly" converting cash distributions (such as dividends) received for ADRs into U.S. dollars for the benefit of ADR holders, and was required to act without bad faith. Plaintiffs alleged that, instead, when doing the ADR cash conversions, BNY Mellon used the range of exchange rates available during the trading session in a manner that was unfavorable for ADR holders, and in doing so, improperly skimmed profits from distributions owed and payable to the class. In 2019, the court granted final approval to a $72.5 million settlement of the action.

***IN RE BANK OF NEW YORK MELLON CORP. FOREIGN EXCHANGE TRANSACTIONS LITIGATION*, MDL 2335 (S.D.N.Y.)**

Lieff Cabraser served as Co-Lead Class Counsel for a proposed nationwide class of institutional custodial customers of The Bank of New York Mellon Corporation ("BNY Mellon"). The litigation stemmed from alleged deceptive overcharges imposed by BNY Mellon on foreign currency exchanges (FX) that were done in connection with custodial customers' purchases or sales of foreign securities. Plaintiffs alleged that for more than a decade, BNY Mellon consistently charged its custodial customers hidden and excessive mark-ups on exchange rates for FX trades done pursuant to "standing instructions," using "range of the day" pricing, rather than the rates readily available when the trades were actually executed.

In addition to serving as Co-Lead Counsel for a nationwide class of affected custodial customers, which included public pension funds, ERISA funds, and other public and private institutions, Lieff Cabraser was one of three firms on Plaintiffs' Executive Committee, tasked with managing all activities on the plaintiffs' side in the multidistrict consolidated litigation. Prior to the cases being transferred and consolidated in the Southern District of New York, Lieff Cabraser defeated, in its entirety, BNY Mellon's motion to dismiss claims brought on behalf of ERISA and other funds under California's and New York's consumer protection laws.

The firm's clients and class representatives in the consolidated litigation included the Ohio Police & Fire Pension Fund, the School Employees Retirement System of Ohio, and the International Union of Operating Engineers, Stationary Engineers Local 39 Pension Trust Fund.

In March 2015, a global resolution of the private and governmental enforcement actions against BNY Mellon was announced, in which $504 million would be paid back to BNY Mellon customers ($335 million of which was directly attributable to the class litigation).

On September 24, 2015, U.S. District Court Judge Lewis A. Kaplan granted final approval to the settlement. **Commenting on the work of plaintiffs' counsel, Judge Kaplan stated,**

> ***"This really was an extraordinary case in which plaintiff's counsel performed, at no small risk, an extraordinary service. They did a wonderful job in this case, and I've seen a lot of wonderful lawyers over the years. This was a great performance. They were fought tooth and nail at every step of the road. It undoubtedly vastly expanded the costs of the case, but it's an adversary system, and sometimes you meet adversaries who are heavily armed and well financed, and if you're going to win, you have to fight them and it costs money. This was an outrageous wrong committed by the Bank of New York Mellon, and plaintiffs' counsel deserve a world of credit for taking it on, for running the risk, for financing it and doing a great job."***

***THE REGENTS OF THE UNIVERSITY OF CALIFORNIA V. AMERICAN INTERNATIONAL GROUP,* NO. 1:14-CV-01270-LTS-DCF (S.D.N.Y.)**

Lieff Cabraser represented The Regents of the University of California in this individual action against American International Group, Inc. ("AIG") and certain of its officers and directors for misrepresenting and omitting material information about AIG's financial condition and the extent of its exposure to the subprime mortgage market. The complaint charged defendants with violations of the Exchange Act, as well as common law fraud and unjust enrichment. The litigation settled in 2015.

***JANUS OVERSEAS FUND, ET AL. V. PETRÓLEO BRASILEIRO S.A. - PETROBRAS, ET AL.,* NO. 1:15-CV-10086-JSR (S.D.N.Y.); *DODGE & COX GLOBAL STOCK FUND, ET AL. V. PETRÓLEO BRASILEIRO S.A. - PETROBRAS, ET AL.,* NO. 1:15-CV-10111-JSR (S.D.N.Y.)**

Lieff Cabraser represented certain Janus and Dodge & Cox funds and investment managers in individual actions against Petróleo Brasileiro S.A. – Petrobras, related Petrobras entities, and certain of Petrobras's senior officers and directors, for misrepresenting and failing to disclose a pervasive and long-running scheme of bribery and corruption at Petrobras. As a result of the misconduct, Petrobras overstated the value of its assets by billions of dollars and materially misstated its financial results during the relevant period. The actions charged defendants with violations of the Securities Act of 1933 (the "Securities Act") and/or the Securities Exchange Act of 1934 ("Exchange Act"). The action settled on confidential terms favorable to plaintiffs.

***IN RE DIAMOND FOODS, INC., SECURITIES LITIGATION,* NO. 11-CV-05386-WHA (N.D. CAL.)**

Lieff Cabraser served as local counsel for Lead Plaintiff Public Employees' Retirement System of Mississippi ("MissPERS") and the class of investors it represented in this securities class action lawsuit arising under the PSLRA. The complaint charged Diamond Foods and certain senior executives of the company with violations of the Exchange Act for knowingly understating the cost of walnuts Diamond Foods purchased in order to inflate the price of Diamond Foods' common stock. In January 2014, the Court granted final approval of a settlement of the action requiring Diamond Foods to pay $11 million in cash and issue 4.45 million common shares worth $116.3 million on the date of final approval based on the stock's closing price on that date.

***IN RE A-POWER ENERGY GENERATION SYSTEMS, LTD. SECURITIES LITIGATION*, NO. 2:11-ML-2302-GW- (CWX) (C.D. CAL.)**

Lieff Cabraser served as Lead Counsel for Lead Plaintiff in this securities class action that charged defendants with materially misrepresenting A-Power Energy Generation Systems, Ltd.'s financial results and business prospects in violation of the antifraud provisions of the Securities Exchange Act of 1934. The Court approved a $3.675 million settlement in August 2013.

***BIOTECHNOLOGY VALUE FUND, L.P. V. CELERA CORP.,* 3:13-CV-03248-WHA (N.D. CAL.)**

Lieff Cabraser represented a group of affiliated funds investing in biotechnology companies in this individual action arising from misconduct in connection with Quest Diagnostics Inc.'s 2011 acquisition of Celera Corporation. Celera, Celera's individual directors, and Credit Suisse were charged with violations of Sections 14(e) and 20(a) of the Exchange Act and breach of fiduciary duty. In February 2014, the Court denied in large part defendants' motion to dismiss the second amended complaint. In September 2014, the plaintiffs settled with Credit Suisse for a confidential amount. After the completion of fact and expert discovery, and prior to a ruling on defendants' motion for summary judgment, the plaintiffs settled with the Celera defendants in January 2015 for a confidential amount.

***BLACKROCK GLOBAL ALLOCATION FUND V. TYCO INTERNATIONAL LTD., ET AL.*, NO. 2:08-CV-519 (D. N.J.); *NUVEEN BALANCED MUNICIPAL AND STOCK FUND V. TYCO INTERNATIONAL LTD., ET AL.*, NO. 2:08-CV-518 (D. N.J.)**

Lieff Cabraser represented multiple funds of the investment firms BlackRock Inc. and Nuveen Asset Management in separate, direct securities fraud actions against Tyco International Ltd., Tyco Electronics Ltd., Covidien Ltd, Covidien (U.S.), L. Dennis Kozlowski, Mark H. Swartz, and Frank E. Walsh, Jr. Plaintiffs alleged that defendants engaged in a massive criminal enterprise that combined the theft of corporate assets with fraudulent accounting entries that concealed Tyco's financial condition from investors. As a result, plaintiffs purchased Tyco common stock and other Tyco securities at artificially inflated prices and suffered losses upon disclosures revealing Tyco's true financial condition and defendants' misconduct. In 2009, the parties settled the claims against the corporate defendants (Tyco International Ltd., Tyco Electronics Ltd., Covidien Ltd., and Covidien (U.S.). The litigation concluded in 2010. The total settlement proceeds paid by all defendants were in excess of $57 million.

BANK OF AMERICA-MERRILL LYNCH MERGER SECURITIES CASES

In two cases–*DiNapoli, et al. v. Bank of America Corp.*, No. 10 CV 5563 (S.D.N.Y.) and *Schwab S&P 500 Index Fund, et al. v. Bank of America Corp.*, et al., No. 11-cv-07779 PKC (S.D.N.Y.), Lieff Cabraser sought recovery on a direct, non-class basis for losses that a number of public pension funds and mutual funds incurred as a result of Bank of America's alleged misrepresentations and concealment of material facts in connection with its acquisition of Merrill Lynch & Co., Inc. Lieff Cabraser represented the New York State Common Retirement Fund, the New York State Teachers' Retirement System, the Public Employees' Retirement Association of Colorado, and fourteen mutual funds managed by Charles Schwab Investment Management. Both cases settled in 2013 on confidential terms favorable for our clients.

***SCHWAB SHORT-TERM BOND MARKET FUND, ET AL. V. BANK OF AMERICA CORP., ET AL.*, NO. 11 CV 6409 (S.D.N.Y.); *CHARLES SCHWAB BANK, N.A., ET AL. V. BANK OF AMERICA CORP., ET AL.*, NO. 11 CV 6411 (S.D.N.Y.); *SCHWAB MONEY MARKET FUND, ET AL. V. BANK OF AMERICA CORP., ET AL.*, NO. 11 CV 6412 (S.D.N.Y.); *THE CHARLES SCHWAB CORP., ET AL. V. BANK OF AMERICA CORP., ET AL.*, NO. 13 CV 7005 (S.D.N.Y.); *AND BAY AREA TOLL AUTHORITY V. BANK OF AMERICA CORP., ET AL.*, NO. 14 CV 3094 (S.D.N.Y.).**

Lieff Cabraser served as counsel for The Charles Schwab Corporation, its affiliates Charles Schwab Bank, N.A., and Charles Schwab & Co., Inc., and several series of The Charles Schwab Family of Funds, Schwab Investments, and Charles Schwab Worldwide Funds plc (collectively, "Schwab"), as well as the Bay Area Toll Authority ("BATA"), in individual lawsuits against Bank of America Corporation, Credit Suisse Group AG, JPMorgan Chase & Co., Citigroup Inc., and other defendants for allegedly manipulating the London Interbank Offered Rate ("LIBOR").

The complaints alleged that beginning in 2007, the defendants conspired to understate their true costs of borrowing, causing the calculation of LIBOR to be set artificially low. As a result, Schwab and BATA received less than their rightful rates of return on their LIBOR-based investments. The complaints asserted claims under federal and state antitrust laws as well as other statutory and common law claims. The actions were transferred to the Southern District of New York as part of coordinated multidistrict proceedings. As a result of numerous rulings by the district court and the Second Circuit Court of Appeals, certain of Schwab's and BATA's claims were upheld at the pleading stage and others were dismissed. After reaching favorable settlements with a number of the defendants, in 2024 Schwab and BATA settled or otherwise dismissed their remaining claims.

***IN RE AXA ROSENBERG INVESTOR LITIGATION*, NO. CV 11-00536 JSW (N.D. CAL)**

Lieff Cabraser served as Co-Lead Counsel for a class of institutional investors, ERISA-covered plans, and other investors in quantitative funds managed by AXA Rosenberg Group, LLC and its affiliates ("AXA"). Plaintiffs

alleged that AXA breached its fiduciary duties and violated ERISA by failing to discover a material computer error that existed in its system for years, and then failing to remedy it for months after its eventual discovery in 2009. By the time AXA disclosed the error in 2010, investors had suffered losses and paid substantial investment management fees to AXA. After briefing motions to dismiss and working with experts to analyze data obtained from AXA relating to the impact of the error, Lieff Cabraser reached a $65 million settlement with AXA that the Court approved in April 2012.

IN RE BROADCOM CORPORATION DERIVATIVE LITIGATION, NO. CV 06-3252-R (C.D. CAL.)

Lieff Cabraser served as Lead Counsel in a shareholders derivative action arising out of stock options backdating in Broadcom securities. The complaint alleged that defendants intentionally manipulated their stock option grant dates between 1998 and 2003 at the expense of Broadcom and Broadcom shareholders. By making it seem as if stock option grants occurred on dates when Broadcom stock was trading at a comparatively low per share price, stock option grant recipients were able to exercise their stock option grants at exercise prices that were lower than the fair market value of Broadcom stock on the day the options were actually granted. In December 2009, U.S. District Judge Manuel L. Real granted final approval to a partial settlement in which Broadcom Corporation's insurance carriers paid $118 million to Broadcom. The settlement released certain individual director and officer defendants covered by Broadcom's directors' and officers' policy.

Plaintiffs' counsel continued to pursue claims against William J. Ruehle, Broadcom's former Chief Financial Officer, Henry T. Nicholas, III, Broadcom's co-founder and former Chief Executive Officer, and Henry Samueli, Broadcom's co-founder and former Chief Technology Officer. In May 2011, the Court approved a settlement with these defendants. The settlement provided substantial consideration to Broadcom, consisting of the receipt of cash and cancelled options from Dr. Nicholas and Dr. Samueli totaling $53 million in value, plus the release of a claim by Mr. Ruehle, which sought damages in excess of $26 million.

Coupled with the earlier $118 million partial settlement, the total recovery in the derivative action was $197 million, which at the time constituted the third-largest settlement ever in a derivative action involving stock options backdating.

IN RE CABLEVISION SYSTEMS CORP. SHAREHOLDER DERIVATIVE LITIGATION, NO. 06-CV-4130-DGT-AKT (E.D.N.Y.)

Lieff Cabraser served as Co-Lead Counsel in a shareholders' derivative action against the board of directors and numerous officers of Cablevision. The suit alleged that defendants intentionally manipulated stock option grant dates to Cablevision employees between 1997 and 2002 in order to enrich certain officer and director defendants at the expense of Cablevision and Cablevision shareholders. According to the complaint, Defendants made it appear as if stock options were granted earlier than they actually were in order to maximize the value of the grants. In September 2008, the Court granted final approval to a $34.4 million settlement of the action. Over $24 million of the settlement was contributed directly by individual defendants who either received backdated options or participated in the backdating activity.

IN RE NATIONAL CENTURY FINANCIAL ENTERPRISES, INC. INVESTMENT LITIGATION, MDL NO. 1565 (S.D. OHIO)

Lieff Cabraser served as outside counsel for the New York City Employees' Retirement System, Teachers' Retirement System for the City of New York, New York City Police Pension Fund, and New York City Fire Department Pension Fund in this multidistrict litigation arising from fraud in connection with NCFE's issuance of notes backed by healthcare receivables. The New York City Pension Funds recovered more than 70% of their $89 million in losses, primarily through settlements achieved in the federal litigation and another NCFE-matter brought on their behalf by Lieff Cabraser.

***IN RE QWEST COMMUNICATIONS INTERNATIONAL SECURITIES AND "ERISA" LITIGATION* (NO. II), NO. 06-CV-17880-REB-PAC (MDL NO. 1788) (D. COLO.)**

Lieff Cabraser represented the New York State Common Retirement Fund, Fire and Police Pension Association of Colorado, Denver Employees' Retirement Plan, San Francisco Employees' Retirement System, and over thirty BlackRock managed mutual funds in individual securities fraud actions ("opt out" cases) against Qwest Communications International, Inc., Philip F. Anschutz, former co-chairman of the Qwest board of directors, and other senior executives at Qwest. In each action, the plaintiffs charged defendants with massively overstating Qwest's publicly-reported growth, revenues, earnings, and earnings per share from 1999 through 2002. The cases were filed in the wake of a $400 million settlement of a securities fraud class action against Qwest that was announced in early 2006. The cases brought by Lieff Cabraser's clients settled in October 2007 for recoveries totaling more than $85 million, or more than 13 times what the clients would have received had they remained in the class.

***MERRILL LYNCH FUNDAMENTAL GROWTH FUND AND MERRILL LYNCH GLOBAL VALUE FUND V. MCKESSON HBOC*, NO. 02-405792 (CAL. SUPR. CT.)**

Lieff Cabraser served as counsel for two Merrill Lynch sponsored mutual funds in a private lawsuit alleging that a massive accounting fraud occurred at HBOC & Company before and following its 1999 acquisition by McKesson Corporation. The funds charged that defendants, including the former CFO of McKesson HBOC, the name McKesson adopted after acquiring HBOC, artificially inflated the price of securities in McKesson HBOC, through misrepresentations and omissions concerning the financial condition of HBOC, resulting in approximately $135 million in losses for plaintiffs.

In a significant discovery ruling in 2004, the California Court of Appeal held that defendants waived the attorney-client and work product privileges in regard to an audit committee report and interview memoranda prepared in anticipation of shareholder lawsuits by disclosing the information to the U.S. Attorney and *SEC. McKesson HBOC, Inc. v. Supr. Court*, 115 Cal. App. 4th 1229 (2004). Lieff Cabraser's clients recovered approximately $145 million, representing nearly 104% of damages suffered by the funds. This amount was approximately $115-120 million more than the Merrill Lynch funds would have recovered had they participated in the federal class action settlement.

***IN RE NETWORK ASSOCIATES, INC. SECURITIES LITIGATION*, NO. C-99-1729-WHA (N.D. CAL.)**

Following a competitive bidding process, the Court appointed Lieff Cabraser as Lead Counsel for the Lead Plaintiff and the class of investors. The complaint alleged that Network Associates improperly accounted for acquisitions in order to inflate its stock price. In May 2001, the Court granted approval to a $30 million settlement.

In reviewing the Network Associates settlement, U.S. District Court Judge William H. Alsup observed, "[T]he class was well served at a good price by excellent counsel . . . We have class counsel who's one of the foremost law firms in the country in both securities law and class actions. And they have a very excellent reputation for the conduct of these kinds of cases . . ."

***IN RE MEDIA VISION TECHNOLOGY SECURITIES LITIGATION*, NO. CV-94-1015 (N.D. CAL.)**

Lieff Cabraser served as Co-Lead Counsel in a class action lawsuit which alleged that certain Media Vision's officers, outside directors, accountants and underwriters engaged in a fraudulent scheme to inflate the company's earnings and issued false and misleading public statements about the company's finances, earnings and profits. By 1998, the Court had approved several partial settlements with many of Media Vision's officers and directors, accountants and underwriters which totaled $31 million and which were distributed to eligible class members. The evidence that Lieff Cabraser developed in the civil case led prosecutors to commence an investigation and ultimately file criminal charges against Media Vision's former Chief Executive Officer and Chief Financial Officer.

The civil action against Media Vision's CEO and CFO was stayed pending the criminal proceedings against them. In the criminal proceedings, the CEO pled guilty on several counts, and the CFO was convicted at trial. In October 2003, the Court granted Plaintiffs' motions for summary judgment and entered a judgment in favor of the class against the two defendants in the amount of $188 million.

IN RE FPI/AGRETECH SECURITIES LITIGATION, MDL NO. 763 (D. HAW., REAL, J.)

Lieff Cabraser served as Lead Class Counsel for investors defrauded in a "Ponzi-like" limited partnership investment scheme. The Court approved $15 million in partial, pretrial settlements. At trial, the jury returned a $24 million verdict, which included $10 million in punitive damages, against non-settling defendant Arthur Young & Co. for its knowing complicity and active and substantial assistance in the marketing and sale of the worthless limited partnership offerings. The Appellate Court affirmed the compensatory damages award and remanded the case for a retrial on punitive damages. In 1994, the Court approved a $17 million settlement with Ernst & Young, the successor to Arthur Young & Co.

IN RE CALIFORNIA MICRO DEVICES SECURITIES LITIGATION, NO. C-94-2817-VRW (N.D. CAL.)

Lieff Cabraser served as Liaison Counsel for the Colorado Public Employees' Retirement Association and the California State Teachers' Retirement System, and the class they represented. Prior to 2001, the Court approved $19 million in settlements. In May 2001, the Court approved an additional settlement of $12 million, which, combined with the earlier settlements, provided class members an almost complete return on their losses. The settlement with the company included multi-million dollar contributions by the former Chairman of the Board and Chief Executive Officer.

Commenting in 2001 on Lieff Cabraser's work in Cal Micro Devices, U.S. District Court Judge Vaughn R. Walker stated, "It is highly unusual for a class action in the securities area to recover anywhere close to the percentage of loss that has been recovered here, and counsel and the lead plaintiffs have done an admirable job in bringing about this most satisfactory conclusion of the litigation." One year later, in a related proceeding and in response to the statement that the class had received nearly a 100% recovery, Judge Walker observed, "That's pretty remarkable. In these cases, 25 cents on the dollar is considered to be a magnificent recovery, and this is [almost] a hundred percent."

ALASKA STATE DEPARTMENT OF REVENUE V. AMERICA ONLINE, NO. 1JU-04-503 (ALASKA SUPR. CT.)

In December 2006, a $50 million settlement was reached in a securities fraud action brought by the Alaska State Department of Revenue, Alaska State Pension Investment Board and Alaska Permanent Fund Corporation against defendants America Online, Inc., Time Warner Inc., Historic TW Inc. When the action was filed, the Alaska Attorney General estimated total losses at $70 million. The recovery on behalf of Alaska was approximately 50 times what the state would have received as a member of the class in the federal securities class action settlement. The lawsuit, filed in 2004 in Alaska State Court, alleged that defendants misrepresented advertising revenues and growth of AOL and AOLTW along with the number of AOL subscribers, which artificially inflated the stock price of AOL and AOLTW to the detriment of Alaska State funds.

The Alaska Department of Law retained Lieff Cabraser to lead the litigation efforts under its direction. "We appreciate the diligence and expertise of our counsel in achieving an outstanding resolution of the case," said Mark Morones, spokesperson for the Department of Law, following announcement of the settlement.

ALBERT V. ALEX. BROWN MANAGEMENT SERVICES; BAKER V. ALEX. BROWN MANAGEMENT SERVICES (DEL. CH. CT.)

In May 2004, on behalf of investors in two investment funds controlled, managed and operated by Deutsche Bank and advised by DC Investment Partners, Lieff Cabraser filed lawsuits for alleged fraudulent conduct that resulted in an

aggregate loss of hundreds of millions of dollars. The suits named as defendants Deutsche Bank and its subsidiaries Alex. Brown Management Services and Deutsche Bank Securities, members of the funds' management committee, as well as DC Investments Partners and two of its

principals. Among the plaintiff-investors were 70 high net worth individuals. In the fall of 2006, the cases settled by confidential agreement.

INFORMIX/ILLUSTRA SECURITIES LITIGATION, NO. C-97-1289-CRB (N.D. CAL.)

Lieff Cabraser represented Richard H. Williams, the former Chief Executive Officer and President of Illustra Information Technologies, Inc., and a class of Illustra shareholders in a class action suit on behalf of all former Illustra securities holders who tendered their Illustra preferred or common stock, stock warrants or stock options in exchange for securities of Informix Corporation in connection with Informix's 1996 purchase of Illustra. Pursuant to that acquisition, Illustra stockholders received Informix securities representing approximately 10% of the value of the combined company. The complaint alleged claims for common law fraud and violations of Federal securities law arising out of the acquisition. In October 1999, U.S. District Judge Charles E. Breyer approved a global settlement of the litigation for $136 million, constituting one of the largest settlements ever involving a high technology company alleged to have committed securities fraud. Our clients, the Illustra shareholders, received approximately 30% of the net settlement fund.

NGUYEN V. FUNDAMERICA, NO. C-90-2090 MHP (N.D. CAL., PATEL, J.), 1990 FED. SEC. L. REP. (CCH) ¶ 95,497, 95,498 (N.D. CAL. 1990)

Lieff Cabraser served as Plaintiffs' Class Counsel in this securities/RICO/tort action seeking an injunction against alleged unfair "pyramid" marketing practices and compensation to participants. The District Court certified a nationwide class for injunctive relief and damages on a mandatory basis and enjoined fraudulent overseas transfers of assets. The Bankruptcy Court permitted class proof of claims. Lieff Cabraser obtained dual District Court and Bankruptcy Court approval of settlements distributing over $13 million in FundAmerica assets to class members.

IN RE FIRST CAPITAL HOLDINGS CORP. FINANCIAL PRODUCTS SECURITIES LITIGATION, MDL NO. 901 (C.D. CAL.)

Lieff Cabraser served as Co-Lead Counsel in a class action brought to recover damages sustained by policyholders of First Capital Life Insurance Company and Fidelity Bankers Life Insurance Company policyholders resulting from the insurance companies' allegedly fraudulent or reckless investment and financial practices, and the manipulation of the companies' financial statements. This policyholder settlement generated over $1 billion in restored life insurance policies. The settlement was approved by both federal and state courts in parallel proceedings and then affirmed by the Ninth Circuit on appeal.

KOFUKU BANK AND NAMIHAYA BANK V. REPUBLIC NEW YORK SECURITIES CORP., NO. 00 CIV 3298 (S.D.N.Y.); *AND KITA HYOGO SHINYO-KUMIAI V. REPUBLIC NEW YORK SECURITIES CORP.,* NO. 00 CIV 4114 (S.D.N.Y.)

Lieff Cabraser represented Kofuku Bank, Namihaya Bank and Kita Hyogo Shinyo-Kumiai (a credit union) in individual lawsuits against, among others, Martin A. Armstrong and HSBC, Inc., the successor-in-interest to Republic New York Corporation, Republic New York Bank and Republic New York Securities Corporation, for alleged violations of federal securities and racketeering laws.

Through a group of interconnected companies owned and controlled by Armstrong—the Princeton Companies—Armstrong and the Republic Companies promoted and sold promissory notes, known as the "Princeton Notes," to more than eighty of the largest companies and financial institutions in Japan. Lieff Cabraser's lawsuits, as well as the lawsuits of dozens of other Princeton Note investors, alleged that the Princeton and Republic Companies made fraudulent misrepresentations and non-disclosures in connection with the promotion and sale of Princeton Notes,

and that investors' monies were commingled and misused to the benefit of Armstrong, the Princeton Companies and the Republic Companies.

In December 2001, the claims of our clients and those of the other Princeton Note investors were settled. As part of the settlement, our clients recovered more than $50 million, which represented 100% of the value of their principal investments, less money they received in interest or other payments.

***IN RE SCORPION TECHNOLOGIES SECURITIES LITIGATION I,* NO. C-93-20333-EAI (N.D. CAL.); *DIETRICH V. BAUER, NO. C-95-7051-RWS (S.D.N.Y.); CLAGHORN V. EDSACO,* NO. 98-3039-SI (N.D. CAL.)**

Lieff Cabraser served as Lead Counsel in class action suits arising out of an alleged fraudulent scheme by Scorpion Technologies, Inc., certain of its officers, accountants, underwriters and business affiliates to inflate the company's earnings through reporting fictitious sales.

In *Scorpion I*, the Court found plaintiffs had presented sufficient evidence of liability under Federal securities acts against the accounting firm Grant Thornton for the case to proceed to trial. *In re Scorpion Techs.*, 1996 U.S. Dist. LEXIS 22294 (N.D. Cal. Mar. 27, 1996). In 1988, the Court approved a $5.5 million settlement with Grant Thornton. In 2000, the Court approved a $950,000 settlement with Credit Suisse First Boston Corporation.

In April 2002, a federal jury in San Francisco, California returned a $170.7 million verdict against Edsaco Ltd. The jury found that Edsaco aided Scorpion in setting up phony European companies as part of a scheme in which Scorpion reported fictitious sales of its software to these companies, thereby inflating its earnings. Included in the jury verdict, one of the largest verdicts in the U.S. in 2002, was $165 million in punitive damages. Richard M. Heimann conducted the trial for plaintiffs.

On June 14, 2002, U.S. District Court Judge Susan Illston commented on Lieff Cabraser's representation: "[C]ounsel for the plaintiffs did a very good job in a very tough situation of achieving an excellent recovery for the class here. You were opposed by extremely capable lawyers. It was an uphill battle. There were some complicated questions, and then there was the tricky issue of actually collecting anything in the end. I think based on the efforts that were made here that it was an excellent result for the class. . . [T]he recovery that was achieved for the class in this second trial is remarkable, almost a hundred percent."

***ALLOCCO V. GARDNER, NO. GIC 806450* (CAL. SUPR. CT.)**

Lieff Cabraser represented Lawrence L. Garlick, the co-founder and former Chief Executive Officer of Remedy Corporation, and 24 other former senior executives and directors of Remedy Corporation in a private (non-class) securities fraud lawsuit against Stephen P. Gardner, the former Chief Executive Officer of Peregrine Systems, Inc., John J. Moores, Peregrine's former Chairman of the Board, Matthew C. Gless, Peregrine's former Chief Financial Officer, Peregrine's accounting firm Arthur Andersen, and certain entities that entered into fraudulent transactions with Peregrine.

The lawsuit, filed in California state court, arose out of Peregrine's August 2001 acquisition of Remedy. Plaintiffs charged that they were induced to exchange their Remedy stock for Peregrine stock on the basis of false and misleading representations made by defendants. Within months of the Remedy acquisition, Peregrine began to reveal to the public that it had grossly overstated its revenue during the years 2000-2002, and eventually restated more than $500 million in revenues.

After successfully defeating demurrers brought by defendants, including third parties who were customers of Peregrine who aided and abetted Peregrine's accounting fraud under California common law, plaintiffs reached a series of settlements. The settling defendants included Arthur Andersen, all of the director defendants, three officer defendants and the third party customer defendants KPMG, British Telecom, Fujitsu, Software Spectrum and Bindview. The total amount received in settlements was approximately $45 million.

SURVIVOR RIGHTS & ADVOCACY

Lieff Cabraser has brought successful lawsuits on behalf of minor victims of sexual abuse, including against schools, hospitals/doctors and behavioral health facilities. Lieff Cabraser was one of the principal architects of the historic $215 million settlement reached in 2020 on behalf of a class of approximately 18,000 female students who were sexually assaulted at the University of Southern California by Dr. George Tyndall, and continues to advance litigation across the U.S. on behalf of victims of sexual assault and predatory conduct, including in Michigan against the University of Michigan and its Regents for allowing and enabling a University physician, Dr. Robert E. Anderson, to sexually abuse students while employed by the University for more than 30 years (1968-2003); against Devereux behavioral health facilities; against the Branson private school in Marin County; and against airlines including Frontier for sexual assaults against passengers occurring on commercial flights across the U.S.

Representative Current Cases

HILLSDALE CAMPUS SEXUAL ASSAULT LITIGATION

Lieff Cabraser represents two individuals and a putative class of current and former female students of Hillsdale College, a private university in Western Michigan that prides itself on its conservative Christian values. The complaint alleges that female students at Hillsdale face a heightened risk of sexual assault, and that when students come forward to report such incidents—as the named plaintiffs did—Hillsdale fails to properly respond. Plaintiffs' claims include traditional torts, violations of state civil rights and consumer protection laws, and violations of Title IX. For the Title IX claim, Plaintiffs argue that Hillsdale's tax-exempt status as 501(c)(3) operates as a subsidy, subjecting it to the statute's obligations regarding sex discrimination and sexual assault in schools.

DEVEREUX ADVANCED BEHAVIORAL HEALTH STAFF SEXUAL ABUSES

Lieff Cabraser represents six individuals and a putative class of thousands of other children across the U.S. in a federal class action sexual abuse lawsuit in Pennsylvania against Devereux Foundation (a/k/a Devereux Advanced Behavioral Health) and QualityHealth Staffing, LLC. The complaint details multiple alleged violations of state and federal law, including assault; battery; failure to report child abuse; creation of a sexually hostile culture/heightened risk of sexual harassment; deliberate indifference to prior sexual harassment; negligence and failure to provide safe environment with adequate protection, supervision, and care; negligent hiring of unsuitable personnel; negligent retention of unsuitable personnel; negligent supervision; gross negligence; and negligent misrepresentation. One of the largest behavioral health organizations in the country, Devereux has more than 7,500 staff members across 13 states.

The complaint includes allegations of the rape and sexual abuse of inpatient clients as well as abuses committed by fellow inpatients that were ignored and/or suppressed by Devereux staff and management. Some patients who raised such allegations claim they were not only disregarded but punished for initiating complaints, including the withholding of food, physical restraint, isolation, and even physical abuse.

SEX TRAFFICKING OF MINORS VIA SOCIAL MEDIA

Lieff Cabraser is investigating reports of sex trafficking and sexual exploitation occurring on social media platforms across the country, including on Twitter, TikTok, Instagram, Snapchat, WhatsApp, OnlyFans, Facebook, Backpage, and Craigslist. The firm represents a client who was trafficked through advertisements on Craigslist as a minor teenager. The case, *J.B. v. craigslist, Inc.*, 4:19-cv-07848-HSG, is now pending in the Ninth Circuit on the issue of whether an internet company can be held responsible for benefitting from sex trafficking it knew or should have known was ongoing on its platform.

HOTCHKISS SCHOOL SEXUAL ABUSE LAWSUITS

We represent former students in a sexual abuse class action lawsuit against The Hotchkiss School, a college

preparatory school in Lakeville, Connecticut. The suit alleges that, during their time Hotchkiss, the former students were subjected to grooming, inappropriate touching, assault, and rape by English teacher and athletic trainer Roy Smith, who was known to the School as a pedophile who had abused numerous other male students at the School.

The suit seeks to certify the issues of Hotchkiss's duty to its students, and its breach of that duty, on a classwide basis, so others coming forward will not have to prove those elements again from scratch each time. This will make it easier for other Smith victims to hold Hotchkiss accountable for what it allowed to happen to them at Smith's hands.

Lieff Cabraser has been successful in prior litigation against Hotchkiss concerning Roy Smith. On March 8, 2019, U.S. District Judge Victor Bolden (D. Conn.) ruled that a former student's sexual abuse lawsuit against Hotchkiss could move forward to trial on counts of breach of fiduciary duty, recklessness, negligence, and negligent infliction of emotional distress. That case subsequently resolved. And on July 8, 2019, the same Court ruled that another former student's sexual abuse lawsuit against Hotchkiss concerning Smith could proceed past the pleading stage; that case also subsequently resolved. A third case resolved pre-litigation.

SACRED HEART SCHOOLS SEXUAL ABUSE CLAIMS

Lieff Cabraser represents survivors of alleged sexual abuse at the elite Sacred Heart schools in Atherton and San Francisco, California, involving sexual abuse of children and teens by teachers and volunteers. Sacred Heart Atherton is now the subject of an independent investigation by a third-party firm that is investigating alleged sexual misconduct going back to at least the 1990s against students. Lieff Cabraser is working with students and their families to bring accountability and change to this important institution.

THACHER SCHOOL OJAI CALIFORNIA STUDENT SEXUAL ABUSE

Lieff Cabraser represents two victims of sexual abuse at Ojai's elite Thacher School after shocking revelations of a 91-page report compiled by an outside firm following a months-long investigation into allegations of sexual abuse, molestation, harassment, groping, and rape of teenage students at the Thacher School over the last forty years. The report includes details about a 16-year-old student who was repeatedly raped by her English teacher at Thacher, and further notes that the former head of the school, who died in 2014, faced accusations of inappropriate touching and making improper comments.

UNIVERSITY OF SAN FRANCISCO AND NCAA STUDENT-ATHLETE ABUSE

In June of 2022, nine former USF baseball players joined the class action lawsuit filed in March 2022 against their two (now former) baseball coaches, USF, and the NCAA. Lieff Cabraser and co-counsel represent the plaintiff players who allege that USF coaches Anthony Giarratano and Troy Nakamura created an intolerable sexualized environment on the team over the course of 22 years, that USF knew about their misconduct and did nothing to stop it, and that the NCAA has inadequate policies in place to protect student-athletes from such abuse or prevent coaches from moving on to another member institution with impunity. The amended complaint includes the claims brought by the original three plaintiffs, and provides vivid and disturbing details of an environment rife with emotional abuse and highly sexualized behavior, with the earliest allegations dating back to 1999—Giarratano's first year as coach. The original complaint was filed on March 11, 2022, in the U.S. District Court for the Northern District of California, San Francisco Division. Since the filing, Giarratano and Nakamura have been fired, and USF athletic director, Joan McDermott, has left her position.

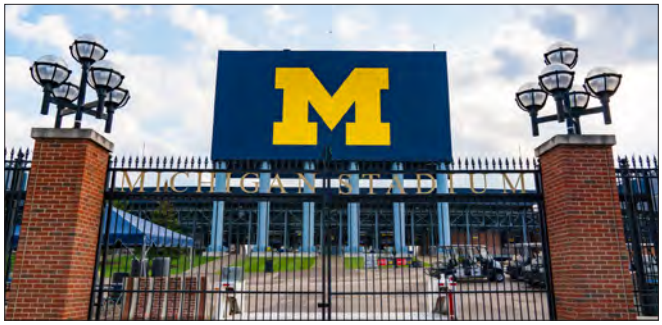
The lawsuit seeks to address the systemic institutional failures at USF that allowed such abuse to continue unabated despite complaints up to and including those made to the Athletic Director and Title IX office, and includes allegations that the NCAA failed to protect the student-athletes from abuse and harassment, and also failed to create and enforce prohibitions of sexual contact between coaches and student-athletes. The complaint also details multiple attempts made by parents and others to demand the Jesuit university step in to protect the student-athletes from ongoing abuse, only to have the school administration repeatedly ignore calls for assistance. In January of 2023, the Court determined that Indiana-based NCAA's ties to California were too threadbare to keep it as a defendant, but held that the case should continue against the University of San Francisco.

SURVIVOR RIGHTS & ADVOCACY

Representative Achievements & Successes

BRANSON SCHOOL STUDENT SEXUAL ABUSE LAWSUIT

Lieff Cabraser represented an alumna in her lawsuit against the elite Branson School in Marin County. The case followed an independent investigation into Branson that revealed decades of sexual abuse by teachers, administrators, and coaches against female students from the 1970s to 2010s. The report named four men whom investigators concluded had engaged in sexual misconduct with at least 10 girls. The firm's client alleged that in the late 1980s she was subject to sexual abuse by one of the men named in the report, assistant basketball coach Richard Manoogian, and that Branson failed to protect her from this abuse. The case also alleged that the abuse was known to head basketball coach Jonas Honick, a "local legend" who remained in his coaching role until recently. The case resolved in 2022.



***JOHN DOE V. UNIVERSITY OF MICHIGAN AND THE REGENTS OF THE UNIVERSITY OF MICHIGAN*, CASE NO. 2:20-CV-10629 (E.D. MICH.)**

Lieff Cabraser serveed as Plaintiffs' Interim Co-Class Counsel in the sexual abuse litigation against the University of Michigan and Dr. Robert E. Anderson in the U.S. District Court for the Eastern District of Michigan. The lawsuit, brought on behalf of former student-patients, alleged that Anderson abused his position to repeatedly and regularly sexually assault University students in the guise of providing medical care, and that the University of Michigan and its Regents allowed and enabled that abuse during his employment at the University from 1968 through 2003. A University of Michigan press release noted that the sexual abuse allegations against Anderson were said to be "disturbing and very serious," and include claims of unnecessary and intimate exams by a doctor with unrestricted access to male college athletes over a period extending over three decades.

On August 3, 2022, U.S. District Judge Victoria A. Roberts issued an Order granting final approval to a settlement of the University of Michigan campus sexual misconduct class action that in cluded the establishment and implementation of landmark policy and procedural reforms at the University.

***JANE DOE ET AL. V. GEORGE TYNDALL AND THE UNIVERSITY OF SOUTHERN CALIFORNIA*, NO. 2:18-CV-05010 (C.D. CAL.)**

Lieff Cabraser and co-counsel represented a class of women sexually abused, harassed, and molested by gynecologist George Tyndall, M.D. while they were students at University of Southern California ("USC"). The complaint alleged USC actively and deliberately concealed Tyndall's sexual abuse for years, continuing to grant Tyndall unrestricted sexual access to the female USC students in his care, despite publicly admitting that it had received numerous complaints of Tyndall's sexually abusive behavior dating back to at least the year 2000. In February 2020, plaintiffs secured final approval of a settlement on behalf of nearly 18,000 women requiring USC to adopt and implement significant and permanent procedures for identification, prevention, and reporting of sexual and racial misconduct, as well as recognize all of Tyndall's patients through a $215 million fund that gives every survivor a choice in how to participate via a tiered claim structure that allows victims to choose the level of engagement they wish to have with the claims process and how they wish to communicate their stories. The settlement was designed to provide victims with a safe process within which to come forward, where they would have complete control over how much they wanted to engage at their chosen level of comfort.

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Full online bio: https://lieffcabraser.com/attorneys/yun-swenson/

DR. MARTHA SZABÓ-ANNIGHÖFER, Associate. *Office*: Munich. *Practice Area*: Antitrust. *Education*: Second German State Exam, Göttingen, Germany (2020); Georg-August-University, Göttingen, Germany, Dissertation (2019); First German State Exam, Göttingen, Germany (2014).
Full online bio: https://lieffcabraser.com/attorneys/martha-szabo-annighofer/

BENJAMIN A. TROUVAIS, Associate. *Office*: San Francisco. *Education*: University of California, Berkeley School of Law (J.D., 2023); University of Illinois at Urbana-Champaign, College of Liberal Arts and Sciences (B.A., *magna cum laude*, 2020).
Full online bio: https://www.lieffcabraser.com/attorneys/benjamin-a-trouvais/

LINDA TRUONG, Staff Attorney. *Office*: San Francisco. *Education*: Western State University College of Law (J.D., 2005); University of California, Los Angeles (B.S., 2000).
Full online bio: https://www.lieffcabraser.com/attorneys/linda-truong/

OLIVIA VETESI, Staff Attorney. *Office*: San Francisco. *Education*: University of California, Hastings College of the Law (J.D., 2010); University of California, Berkeley (B.A., 2003).
Full online bio: https://lieffcabraser.com/attorneys/olivia-vetesi/

FABRICE N. VINCENT, Partner. *Office*: San Francisco. *Practice Areas* : Defective Products, Environmental and Toxic Exposures, False Claims Act, Personal Injury and Products Liability, Survivor Rights and Advocacy. *Education*: Cornell Law School (J.D., *cum laude*, 1992); University of California at Berkeley (B.A., 1989).
Full online bio: https://lieffcabraser.com/attorneys/fabrice-n-vincent/

ROSE WALLER, Staff Attorney. *Office*: San Francisco. *Education*: University of California, Hastings College of the Law (J.D., 2001); University of California, Berkeley (B.A., 1996).
Full online bio: https://lieffcabraser.com/attorneys/rose-waller/

ANNIE M. WANLESS, Associate. *Office*: San Francisco. *Education*: Stanford Law School (J.D., 2021); University of Southern California (B.A., 2014).
Full online bio: https://www.lieffcabraser.com/attorneys/annie-m-wanless/

DANIEL WASSON, Associate. *Office*: San Francisco. *Education*: University of California, Berkeley, School of Law (Berkeley Law) (J.D., 2002); University of California, Los Angeles (B.A., 1998).
Full online bio: https://lieffcabraser.com/attorneys/daniel-wasson/

GAIL WILLIAMS, Staff Attorney. *Office*: San Francisco. *Education*: Boston College Law School (J.D., 2010); Yale University (B.A., 2007).
Full online bio: https://lieffcabraser.com/attorneys/gail-williams/

CAITLIN WOODS, Associate. *Office*: San Francisco. *Practice Areas*: Antitrust, Civil/Human Rights and Social Justice, Employment Discrimination and Unfair Employment Practices, Personal Injury and Products Liability. *Education*: University of California, Berkeley School of Law (J.D., High Distinction in General Scholarship, 2020); University of California, Berkeley (B.A., High Honors in General Distinction, 2015); University of California, Santa Barbara (2013).
Full online bio: https://lieffcabraser.com/attorneys/caitlin-woods/

CRISTINA YU, Staff Attorney. *Office*: San Francisco. *Education*: Santa Clara University (J.D., 1997); California State University, Hayward (B.S., 1988).
Full online bio: https://www.lieffcabraser.com/attorneys/cristina-yu/

SARAH D. ZANDI, Associate. *Office*: San Francisco. *Practice Areas*: Antitrust, False Claims Act, Personal Injury and Products Liability. *Education*: Stanford Law School (J.D., June 2021); University of Pennsylvania (B.A., *summa cum laude*, 2017).
Full online bio: https://lieffcabraser.com/attorneys/sarah-d-zandi/

JONATHAN ZAUL, Staff Attorney. *Office*: San Francisco. *Education*: University of San Francisco School of Law (J.D., 2009); University of Hong Kong, Faculty of Law – Santa Clara University International Law Program, Hong Kong; University of California, Berkeley (B.A., 2004).
Full online bio: https://lieffcabraser.com/attorneys/jonathan-zaul/

TISEME ZEGEYE, Partner. *Office*: San Francisco. *Practice Areas*: Consumer Protection, Employment Discrimination and Unfair Employment Practices. *Education*: New York University School of Law (J.D. 2011); The College of William and Mary (B.A., *cum laude*, 2008).
Full online bio: https://lieffcabraser.com/attorneys/tiseme-zegeye/

RAND ZUMWALT, Staff Attorney. *Office*: Nashville. *Education*: St. Mary's University School of Law (J.D., 2006); The University of Texas at Austin (B.A., 2003).
Full online bio: https://www.lieffcabraser.com/attorneys/rand-zumwalt/

LIEFF CABRASER IN THE COMMUNITY

Lieff Cabraser proudly supports the goals of civil rights, human rights, increased access to legal services, and initiatives by the legal community to improve civil justice.

Lieff Cabraser has sponsored the Bay Area Minority Law Student Scholarship Program conducted by the Bar Association of San Francisco (BASF). We also support the National Association for Public Interest Law fellowship program. Fellowships made possible by Lieff Cabraser's sponsorship have included work at the East Bay Community Law Center in Oakland, California, the Employment Law Center in San Francisco, California, and the NOW Legal Defense in New York, New York.

HOW TO BE A GOOD ALLY: A STRATEGIC ENGAGEMENT CONFERENCE

In late 2016 San Francisco office managing partner Kelly Dermody conceived and coordinated the enormously successful SF Bay Area "How to be a Good Ally" Strategic Engagement Conference, attended by 1,200 lawyers. Held at the Bill Graham Civic Auditorium in January 2017, the symposium united scores of California and national non-profit organizations with the legal community in an effort to assist communities in need, including in the areas of hate crimes and Anti-Semitism, government targeting of Muslims, attacks on immigrants and the undocumented, domestic violence and sexual assault, healthcare for people with disabilities and medical vulnerabilities, backlash against the LGBT community, criminalization of communities of color, reproductive rights, worker justice, and saving the environment.

Lieff Cabraser's Additional Community Sponsorships

For over 20 years, Lieff Cabraser has sponsored the radio series "Perspectives," airing on the public broadcasting station KQED-FM in the San Francisco Bay Area. The series offers listeners social and political opinion on a broad spectrum of contemporary issues. We remain committed to sponsoring public radio.

In 2007, Lieff Cabraser attorneys assisted in the launching of the Carver HEARTS Project. The project is a partnership among interested community members, George Washington Carver Elementary School in San Francisco, and UCSF's Department of Infant, Child and Adolescent Psychiatry. The project provides a therapist skilled in treating trauma and post-traumatic stress disorder (PTSD) on-site at Carver Elementary School.

In addition to the above-listed organizations, Lieff Cabraser supports the following:

AIDS Legal Referral Panel
American Constitution Society
American Association for Justice
Anti-Defamation Leage
Asian Law Caucus
Bay Area Lawyers for Individual Freedom
Consumer Attorneys of California
East Bay Community Law Center
Equal Rights Advocates
Family Violence Appellate Project
Health Law Advocates
The Impact Fund
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
La Raza Centro Legal
Law Center to Prevent Gun Violence
Legal Aid Society of San Francisco – Employment Law Center
National Center for Lesbian Rights
National Employment Lawyers Association
New York State Trial Lawyers Association
Pride Law Fund
Public Justice
SeniorLiving.org – Preventing Elder Abuse
United Policyholders
Volunteer Legal Services Program
Workplace Fairness

We have been honored to receive the 2005 AIDS Legal Referral Panel "Firm of the Year" award and the 1998 Navigator of Civil Rights Award presented by the NAACP Legal Defense and Educational Fund.

Firm Acknowledgments

Lawdragon
Lawdragon 500 Leading Litigators: 22
Lawdragon Leading Plaintiff Financial Lawyers: 24
Lawdragon Leading Plaintiff Consumer Lawyers: 28
Global Plaintiff Lawyers: 14
Leading Plaintiff Employment & Civil Rights Lawyers: 10
Lawdragon 500X, The Next Generation: 13
Lawdragon 500 Leading Lawyers: 9 (7+2)

National Law Journal
Elite Trial Lawyers 2024: Employee Rights and Anti-Discrimination
50 Leading Plaintiffs Firms in America
Plaintiffs' Hot List Hall of Fame

New York Law Journal
Class Action Litigation Department of the Year

Benchmark
Labor & Employment Litigator of the Year
Tier 1 for Labor & Employment Litigation
Top 20 Firms for Litigation
Top Plaintiffs Firms

Best Lawyers
38 Outstanding Attorney Leaders
Top Tier Listing for Product Liability Law
Ones to Watch (9 lawyers)

The Daily Journal
California Lawyers of the Year: Juul Team (2023, 2024)
Leading Commercial Litigators (2)
Top Women Lawyers in California
Top Plaintiffs Lawyers in California
Top 40 Under 40 in California
Top 100 Lawyers in California
Top Labor & Employment Lawyers
Law360 Product Liability Practice Group of the Year
Law360 Practice Group of the Year – Product Liability
Law360 Practice Group of the Year – Class Action
Law360 Practice Group of the Year – Cybersecurity & Privacy
Product Liability Rising Stars
Titans of the Plaintiffs Bar

Nashville Post
In Charge Legal

Juve
20 Leading Lawyers in Cartel Damages Litigation in Germany

Chambers
Tier 1 for Plaintiffs' Litigation
Tier 1 for Products Liability
Tier 1 for General Litigation
Tier 1 for Labor & Employment / Plaintiffs

EXHIBIT B TO DECLARATION OF KENNETH S. BYRD

LCHB'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]														**Total Hours**	Hourly Rate	**Total Fees**
NAME	2	3	4	5	6	7	8	9[2]	10	11	12	13	14	18			
KENNETH BYRD (Partner)	42.6	0	17.6	84	19.6	1.8	24.1	0	69.6	748.7	77.9	28.5	43.9	29.6	1,187.9	$1,120	$1,330,448.00
MARK CHALOS (Partner)	0	0	0	0	0	0	1.1	0	14.7	0	19.6	0	0	0	35.4	$1,260	$44,604.00
SEAN PETTERSON (Partner)	12.8	0	15.2	29.3	2.6	0	25.6	0	30.5	28.1	161.2	241	52.3	0.4	599	$820	$491,180.00
CHRISTOPHER COLEMAN (Associate)	0	0	6.9	0	0	0	0	0	0.5	2.5	13.2	114.4	0	0.3	137.8	$835	$115,063.00
WESLEY DOZIER (Associate)	0.5	0	1.9	0	0	0	0	2.8	0.4	9.6	0.5	27.6	15.6	0.8	59.7	$725	$42,576.90
HANNAH LAZARZ (Associate)	7.6	0	1.5	4	0	11.7	10.8	43.4	29.7	0.4	46.9	0	0	3.5	159.5	$655	$96,573.70
ANDREEA MICLUT (Staff Attorney)	0	0	0	0	0	0	0	86.9	0	0	0	0	0	0	86.9	$630	$41,103.70
KIMBERLY SNYDER (Staff Attorney)	0	0	0	0	0	0	0	391	0	0	0	0	0	0	391	$525	$184,943.00
ELIZABETH KEENLEY (Paralegal)	0	0.6	46.1	0	0	0	0	0	0	0	0	0	0	0	46.7	$540	$25,218.00
ERIK KRUGER (Paralegal)	0	0	325.4	0	0	1.8	0	0	0.7	3.9	0	4.8	0	0.6	337.2	$540	$182,088.00
JENNIFER RUDNICK (Research Assistant)	0	0	20	0	0	0.6	2.5	0	0	0	0	0	0	1.5	24.6	$565	$13,899.00
TOTALS	**63.5**	**0.60**	**434.60**	**117.30**	**22.20**	**15.90**	**64.10**	**524.10**	**146.10**	**793.20**	**319.30**	**416.30**	**111.80**	**36.70**	**3,065.70**		**$2,567,697.10**

[1] Code 1 is excluded from this chart as no AARP attorneys or staff spent time on this category during the relevant time period. Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.

[2] The billing rate for Category 9: Document Review is capped at $473/hour according to the Protocol for Time and Expense Reporting created by Co-Lead Counsel.

Key of billing category codes:

1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances
7. Legal Research	8. Discovery	9. Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

EXHIBIT C TO DECLARATION OF KENNETH S. BYRD

LCHB'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

Expense Category Code		Amount
1	Litigation Fund Assessments	$70,000.00
2	Federal Express / Local Courier	$351.31
3	Postage Charges	
4	Facsimile Charges	
5	Long Distance Charges	$15.25
6	In-House Photocopying	$21,967.60
7	Outside Photocopying	
8	Hotels	$10,782.21
9	Meals	$16,814.37
10	Mileage	$1,236.86
11	Air Travel	$11,265.47
12	Deposition Costs	
13	Lexis/Westlaw/PACER	$1,324.39
14	Witness and Expert Expenses	$1,458.85
15	Court Fees	$171.00
16	Investigation Fees / Service Fees	$1,172.00
17	Hearing and Trial Transcripts	
18	Ground Transportation	$6,447.22
19	Miscellaneous	$124.56
19	Miscellaneous (books/subscriptions)	$38.99
	TOTAL LCHB EXPENSES	**$143,170.08**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE: AME CHURCH EMPLOYEE RETIREMENT FUND LITIGATION	MDL Docket No. 1:22-md-03035-STA-jay ALL CASES Honorable S. Thomas Anderson

DECLARATION OF RICHARD SCHULTE IN SUPPORT OF PLAINTIFFS' PETITION FOR ATTORNEYS' FEES FROM THE AMEC AND NEWPORT SETTLEMENTS

I, Richard Schulte, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney licensed to practice law in the State of Ohio. I am a managing partner at Wright & Schulte, LLC, in Vandalia, Ohio. I was appointed to the Plaintiffs' Steering Committee by the Court on August 4, 2022 (ECF No. 68) and my firm was one of the firms appointed as Class Counsel for purposes of the AME Settlement and the Newport Settlement by this Court in its March 24, 2025 Order preliminarily approving the proposed settlements with the AME Defendants and with Defendant Newport Group, Inc. (ECF No. 775.)

2. I am submitting this declaration in support of Plaintiffs' petition for attorneys' fees and expenses and service awards for the appointed Class Representatives in connection with the AME and Newport Settlements.

3. I have supervised all Wright & Schulte attorneys and staff responsible for this matter for the entirety of the litigation thus far. Wright & Schulte's firm resume, including a description of our firm and the attorneys who assisted on this case, is attached hereto as **Exhibit A**.

4. Since being consolidated as an MDL in June of 2022, I have assisted Co-Lead Counsel and the rest of the Plaintiffs' Steering Committee in litigating various aspects of the case as described in Co-Lead Counsel Matthew Lee's declaration.

5. Adhering to the Protocol for Time and Expense Reporting established by Co-Lead Counsel at the onset of this MDL, my firm submitted our contemporaneous time and expense records to Co-Lead monthly. Wright & Schulte's attorneys and staff categorized their time spent on this litigation into one of the following 18 categories:

1) Lead Counsel Calls/Meetings
2) PSC Calls/Meetings
3) Lead Counsel/PSC Duties
4) Administrative
5) MDL Status Conference
6) Court Appearance
7) Research
8) Discovery
9) Document Review
10) Litigation Strategy and Analysis
11) Deposition (Prep/Take/Defend)
12) Pleadings/Briefs/Pre-trial Motions/Legal
13) Experts/Consultants
14) Settlement
15) Trial Preparation
16) Trial
17) Appeal
18) Miscellaneous

6. In connection with preparing the monthly time and expense reports submitted to Co-Lead Counsel and with preparing this declaration, I have reviewed Wright & Schulte's time records from the inception of this litigation up to and including March 31, 2025. The purpose of my review was to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time spent litigating this case. The total number of hours expended by Wright

& Schulte on this litigation from inception through March 31, 2025, is 703.2 hours. Based on our current billing rates, Wright & Schulte's total lodestar for this litigation from inception through March 31, 2025, is $426,180.00. A summary breakdown of Wright & Schulte's lodestar is provided in **Exhibit B**.

7. The hourly rates shown in **Exhibit B** are Wright & Schulte's standing billing rates for contingent cases and are consistent with hourly rates submitted by my firm in other class action or complex litigation. For personnel who are no longer employed by Wright & Schulte, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment at Wright & Schulte.

8. Regarding expenses, at the outset of the litigation the Plaintiffs' Steering Committee established a Litigation Fund to facilitate the sharing of certain costs, such as deposition transcripts, document repository services, expert witness and consultant fees, and mediation fees. My firm has contributed to this Litigation Fund on three occasions for a total of $70,000.00. **Exhibit C** reflects Wright & Schulte's contributions to the Litigation Fund.

9. Additionally, my firm has incurred a number of costs related to such activities as travel and lodging for status conferences, travel and lodging for expert witness meetings, and expert research/consultations. I have reviewed the relevant expenses records for these costs, compiled from receipts, invoices, and other supporting documentation, for accuracy and to determine reasonableness. These expenses are summarized by category in **Exhibit C**.

10. After my review and submission to Co-Lead Counsel, the total amount of expenses incurred from the inception of this litigation through March 31, 2025, for which Wright & Schulte is seeking reimbursement is $142,597.79.

11. To summarize, for purposes of this petition for attorneys' fees and expenses, the total

lodestar for Wright & Schulte is $426,180.00 and the total expenses for which Wright & Schulte is presently seeking reimbursement is $142,597.79. I believe that these totals reflect reasonable and necessary time spent and expenses incurred while litigating on behalf of Plaintiffs and the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed the 6th of May 2025, at Vandalia, Ohio.

/s/ Richard Schulte

Richard Schulte

EXHIBIT A

EXHIBIT A TO DECLARATION OF WRIGHT & SCHULTE

Wright & Schulte, LLC
865 S. Dixie Dr., Vandalia, OH 45377
Phone: (937) 435-7500 | Email: rschulte@yourlegalhelp.com
Website: www.yourlegalhelp.com

Firm Overview

At Wright & Schulte, LLC we specialize in a wide range of complex and high-stakes litigation. Our attorneys are dedicated to achieving justice for individuals harmed by negligent or harmful practices across various industries. Our core practice areas include:

- **Mass Torts**: Representing large groups of individuals injured by defective products, harmful drugs, or toxic exposures, ensuring fair compensation for victims on a national scale.
- **Class Actions**: Handling class action lawsuits to advocate for groups of individuals who have been harmed by corporate misconduct, unsafe products, or other systemic issues.
- **Sexual Abuse**: Providing compassionate and vigorous representation for survivors of sexual abuse, seeking accountability for perpetrators and organizations responsible for neglecting their duty of care.
- **Medical Devices**: Pursuing claims against manufacturers of defective medical devices that cause serious harm to patients, focusing on product liability and safety violations.
- **Harmful Drugs**: Litigating cases involving dangerous or improperly marketed pharmaceuticals, advocating for victims who have suffered side effects from unsafe medications.
- **Unsafe Consumer Products**: Holding manufacturers accountable for unsafe or defective products that cause injury or death, and helping consumers seek appropriate compensation for harm.
- **Toxic Torts**: Representing clients exposed to harmful substances, including chemicals and environmental toxins, that cause significant health issues such as cancer, respiratory diseases, and neurological disorders.
- **Auto Accidents**: Representing individuals injured in automobile accidents, including those involving serious injuries, wrongful death, and liability disputes.

Case Overview

Richard W. Schulte was appointed to the Plaintiff's Steering Committee for the African Methodist Episcopal (AME) Church Multi-District Litigation on August 4, 2022. In this capacity, he represents thousands of pastors who rely on the church's pension plans for their retirement, overseeing the litigation related to the mismanagement of retirement investments. Our firm has been involved in this litigation from the beginning, and as the case progressed, we brought

additional attorneys on board to assist with the discovery and to help coordinate expert witness involvement.

Attorneys Involved

Richard Schulte – Managing Partner, PSC Appointee

- JD, Valparaiso University 1995
- BAR Admissions: Ohio; Iowa; Missouri; United States District Court for the Southern District of Ohio; United States District Court for the Southern District of Illinois; United States District Court for the Southern District of Iowa; Sixth Circuit Court of Appeals; United States Supreme Court; United States Court of Federal Claims.
- Focus: Trial Practice, Mass Torts, Class Actions, Products Liability, Wrongful Death, Trucking & Auto Accidents

- Mass Tort & Class Action Leadership Experience:
- **Farmers Discrimination Financial Assistance Program** – Represented nearly 5,000 farmers in claims alleging discrimination in the USDA/FSA loan process. Wright & Schulte led and coordinated a coalition of seven law firms, collectively securing approximately $500 million in relief for affected farmers.

- **In Re: Hair Relaxer Marketing Sales Practices and Products Liability Litigation MDL 3060 (Northern District of Illinois, Eastern Division, before Judge Mary M. Rowland)**
  Appointed to Plaintiffs' Steering Committee

- **In Re: AME Church Employee Retirement Fund Litigation MDL 3035 (Western District of Tennessee, Eastern Division, before Judge S. Thomas Anderson)**
  Appointed to Plaintiffs' Steering Committee; Independently screened and evaluated two of the three key expert witnesses ultimately retained in the case, Marty Dirks and Eric Dyson, contributing meaningful insight and strategic value that strengthened the litigation strategy and reinforced the merits of the underlying claims.

- **John Doe MC-1 v. The University of Michigan, the Regents of the University of Michigan (Eastern District of Michigan, before Judge Victoria A. Roberts)**
  Appointed Co-Lead Counsel

- **Bettie Ann Smith v. Covidien LP, et al (Lead Case) (Commonwealth of Massachusetts – Superior Court, before Judge Helene Kazanjian)**
  Appointed to Plaintiffs' Executive Committee

- **In Re: Ethicon Physiomesh Flexible Composite Hernia Mesh Products Litigation MDL 2782 (Northern District of Georgia, Atlanta Division, before Judge Richard W. Story)**
  Appointed to Plaintiffs' Steering Committee

- **In Re: Atrium Medical Corp. C-Qur Mesh Litigation MDL 2753 (District of New Hampshire before Judge Landya McCafferty)**
  Appointed to Plaintiffs' Steering Committee

- **In Re: Just For Men Mass Tort Litigation (Southern District of Illinois, before Judge David R. Herndon)**
  Appointed Co-Lead Counsel

- **Imprelis Herbicide Marketing Sales Practices and Products Liability Litigation MDL 2284 (Eastern District of Pennsylvania, before Judge Gene Pratter)**
  Appointed Lead Counsel

- **DuPont De NeMours C-8 Liability Litigation MDL 2433 (Southern District of Ohio, Eastern Division, before Judge Edmund Sargus)**
  Appointed to the Plaintiffs' Steering Committee

- **Skechers California Coordinated Litigation (Los Angeles, Judge Elihu Berle)**
  Appointed to the Plaintiffs' Steering Committee

- **Skechers Toning Shoes Products Liability Litigation MDL 2308 (Western District of Kentucky before Judge Thomas B. Russell)**
  Appointed to the Plaintiffs' Steering Committee

- **Darvocet/Darvon MDL 2226 (Eastern District of Kentucky before Judge Danny Reeves)**
  Appointed Co-Lead Counsel
  Leading the prosecution of those injured by the use of Darvocet/Darvon

- **Yaz/Yasmin MDL 2100 (Southern District of Illinois, Judge Herndon)**
  Member of the Discovery and Science Committee

- **Ortho Evra MDL 1742 (Northern District of Ohio, Judge Katz)**
  Discovery Committee (co-chair)
  Marketing Committee (member)
  Bellwether Fact Witness Team (chair)
  Compensatory Damage Committee (chair)
  MDL Mediation Team (member)

- **Trasylol MDL 1928 (Central District of Florida, Judge Middlebrooks)**
  Conducted Depositions

- AME Role: Led expert consultations and conducted in-depth research to screen and secure two of the three primary experts, Marty Dirks & Eric Dyson, who were qualified to address complex issues central to the case. Managed coordination of expert witness involvement throughout the litigation process, ensuring alignment with case strategy. Actively participated in strategic planning meetings, contributing to key decisions and helping shape the overall direction of the litigation. Reviewed deposition transcripts and discovery materials to support expert drafting, highlighting the most relevant content for inclusion in their reports.

Stephen Behnke – Associate Attorney

- JD, University of Dayton School of Law 2000
- BAR Admissions: Ohio; California
- Focus: Mass Torts, Class Actions, Civil Litigation, Business Transactions and Real Estate
- AME Role: Provided comprehensive support during the expert report and discovery phase by coordinating and participating in expert consultations, preparing background materials, and facilitating communication between counsel and expert witnesses. Contributed to the development, structure, and organization of expert reports to align with case strategy and legal standards. Actively participated in expert meetings to support content development

Kathleen Van Schaik – Associate Attorney

- JD, University of Dayton School of Law 2014
- BAR Admissions: Maryland; Washington D.C.; United States District Court for the District of Maryland
- Focus: Defective Medical Device & Pharmaceutical Litigation, Product Liability, Mass Torts, Class Actions, Wrongful Death, and Personal Injury
- AME Role: Coordinated and participated in expert consultations that included preparing background information. Assisted in the development, organization, and structure of expert reports and ensured alignment with case strategy and legal standards

Jacob Dillon – Associate Attorney

- JD, University of Dayton School of Law 2017
- BAR Admissions: Indiana; United States District Court for the Southern District of Indiana
- Focus: Mass Torts, Class Actions, Product Liability, and Pharmaceutical Drug and Device Litigation
- AME Role: Provided support during the expert report and discovery phase by assisting in the identification and organization of relevant materials needed by both counsel and expert witnesses. Responsibilities included locating and compiling case-specific records, data, and deposition transcripts responsive to expert requests, and ensuring timely delivery of materials for analysis. Reviewed and provided feedback on deposition

transcripts designated for expert review to ensure relevance, clarity, and completeness. Actively participated in expert meetings to support the development of report content, address questions, clarify findings, and incorporate feedback from both counsel and experts to refine and finalize expert opinions and written reports.

EXHIBIT B

EXHIBIT B TO DECLARATION OF RICHARD SCHULTE

WRIGHT & SCHULTE'S LODESTAR FROM INCEPTION OF CASE TO MARCH 31, 2025

	Billing Category Code[1]												Total Hours	Rate	Total Fees
NAME	2	3	4	5	7	8	9[2]	10	11	12	13	14			
Richard Schulte (Partner)	19.4	104.4	1.6	14.5	2.1	6.8	0	4.5	1	16	54.6	10.2	235.1	$1,200	$282,120.00
Kate Van Schaik (Associate)	2	0	0	0	0	0	10.7	0	0	17	5.9	0	35.6	$300	$10,680.00
Stephen Behnke (Associate)	0	0	0	0	0	0	15.8	2.5	0	1.9	4	0	24.2	$450	$10,890.00
Jacob Dillon (Associate)	2	4.8	0	0	0	0	401	0.5	0	0	0	0	408.3	$300	$122,490.00
TOTALS	**23.4**	**109.2**	**1.6**	**14.5**	**2.1**	**6.8**	**427.5**	**7.5**	**1**	**34.9**	**64.5**	**10.2**	**703.2**		**$426,180.00**

Key of billing category codes:

1. Lead Counsel Calls/Meetings	2. PSC Calls/Meetings	3. Lead Counsel/PSC Duties	4. Administrative	5. MDL Status Conference	6. Court Appearances

[1] Codes 1, 6, and 18 are excluded from this chart as no Wright & Schulte attorneys or staff spent time on these categories during the relevant time period. Codes 15-17 are excluded from this chart as the case has not yet progressed to trial preparation, trial, or appeal.

[2] The billing rate for Category 9: Document Review is capped at $473/hour according to the Protocol for Time and Expense Reporting created by Co-Lead Counsel.

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7. Legal Research	8. Discovery	9 Document Review	10. Litigation Strategy & Analysis	11. Deposition Prep/Take/Defend	12. Pleadings/Briefs/Pre-Trial Motions
13. Experts/Consultants	14. Settlement	15. Trial Prep/Bellwether	16. Trial	17. Appeal	18. Miscellaneous

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EXHIBIT C

EXHIBIT C TO DECLARATION OF RICHARD SCHULTE

WRIGHT & SCHULTE'S EXPENSES FROM INCEPTION OF CASE TO MARCH 31, 2025

Expense Category Code		Amount
1	Litigation Fund Assessments	$70,000.00
2	Federal Express / Local Courier	
3	Postage Charges	
4	Facsimile Charges	
5	Long Distance Charges	
6	In-House Photocopying	
7	Outside Photocopying	
8	Hotels	$392.41
9	Meals	
10	Mileage	
11	Air Travel	$377.97
12	Deposition Costs	
13	Lexis/Westlaw/PACER	$16.50
14	Witness and Expert Expenses	$65,840.00
15	Court Fees	
16	Investigation Fees / Service Fees	
17	Hearing and Trial Transcripts	
18	Ground Transportation	$1,261.65
19	Miscellaneous	$4,709.26
TOTAL WRIGHT & SCHULTE EXPENSES		**$142,597.79**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

In re: AME Church Employee Retirement Fund Litigation

22-md-03035

DECLARATION OF BRIAN T. FITZPATRICK

I. Background and qualifications

1. I am the Milton R. Underwood Chair in Free Enterprise and Professor of Law at Vanderbilt University in Nashville, Tennessee. I joined the Vanderbilt law faculty in 2007, after serving as the John M. Olin Fellow at New York University School of Law in 2005 and 2006. I graduated from the University of Notre Dame in 1997 and Harvard Law School in 2000. After law school, I served as a law clerk to The Honorable Diarmuid O'Scannlain on the United States Court of Appeals for the Ninth Circuit and to The Honorable Antonin Scalia on the United States Supreme Court. I also practiced law for several years in Washington, D.C., at Sidley Austin LLP. My C.V. is attached as Exhibit A. I speak only for myself and not for Vanderbilt.

2. My teaching and research at Vanderbilt have focused on class action litigation. I teach the Civil Procedure, Federal Courts, and Complex Litigation courses. In addition, I have published a number of articles on class action litigation in such journals as the University of Pennsylvania Law Review, the Journal of Empirical Legal Studies, the Vanderbilt Law Review, the NYU Journal of Law & Business, the Fordham Law Review, and the University of Arizona Law Review. My work has been cited by numerous courts, scholars, and media outlets such as the New York Times, USA Today, and Wall Street Journal. I have also been invited to speak at symposia and other events about class action litigation, such as the ABA National Institute on

Class Actions in 2011, 2015, 2016, 2017, 2019, 2023, and 2024, as well as the ABA Annual Meeting in 2012 and 2022. Since 2010, I have also served on the Executive Committee of the Litigation Practice Group of the Federalist Society for Law & Public Policy Studies. In 2015, I was elected to membership in the American Law Institute. In 2021, I became the co-editor (with Randall Thomas) of the *Cambridge Handbook of Class Actions: An International Survey*.

3. In December 2010, I published an article in the Journal of Empirical Legal Studies entitled *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811 (2010) (hereinafter "*Empirical Study*"). This article is still what I believe to be the most comprehensive examination of federal class action settlements and attorneys' fees that has ever been published. Unlike other studies of class actions, which have been confined to one subject matter or have been based on samples of cases that were not intended to be representative of the whole (such as settlements approved in published opinions), my study attempted to examine *every* class action settlement approved by a federal court over a two-year period (2006–2007). *See id*. at 812-13. As such, not only is my study an unbiased sample of settlements, but the number of settlements included in my study is also several times the number of settlements per year that has been identified in any other empirical study of class action settlements: over this two-year period, I found 688 settlements, including 54 from the Sixth Circuit alone. *See id*. at 817. I presented the findings of my study at the Conference on Empirical Legal Studies at the University of Southern California School of Law in 2009, the Meeting of the Midwestern Law and Economics Association at the University of Notre Dame in 2009, and before the faculties of many law schools in 2009 and

2010. Since then, this study has been relied upon regularly by courts, scholars, and testifying experts.[1] I have attached this study as Exhibit B and will draw upon it in this declaration.

[1] *See, e.g.*, *In re Stericycle Sec. Litig.*, 35 F.4th 555, 561 (7th Cir. 2022) (relying on article to assess fees); *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (same); *In re Ranbaxy Generic Drug Application Antitrust Litig.*, 2022 WL 4329646, at *5 (D. Mass., Sep. 19, 2022) (same); *de la Cruz v. Manhattan Parking Group*, 2022 WL 3155399, at *4 (S.D.N.Y., Aug. 8, 2022) (same); *Kukorinis v. Walmart*, 2021 WL 8892812, at *4 (S.D.Fla., Sep. 21, 2021) (same); *Kuhn v. Mayo Clinic Jacksonville*, No. 3:19-cv-453-MMH-MCR, 2021 WL 1207878, at *12-13 (M.D. Fla. Mar. 30, 2021) (same); *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 MD 2262 (NRB), 2020 WL 6891417, at *3 (S.D.N.Y. Nov. 24, 2020) (same); *Shah v. Zimmer Biomet Holdings, Inc.*, No. 3:16-cv-815-PPS-MGG, 2020 WL 5627171, at *10 (N.D. Ind. Sept. 18, 2020) (same); *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR), 2020 WL 3250593, at *5 (S.D.N.Y. June 16, 2020) (same); *In re Wells Fargo & Co. S'holder Derivative Litig.*, No. 16-cv-05541-JST, 2020 WL 1786159, at *11 (N.D. Cal. Apr. 7, 2020) (same); *Arkansas Teacher Ret. Sys. v. State St. Bank & Trust Co.*, No. CV 11-10230-MLW, 2020 WL 949885, 2020 WL 949885, at *52 (D. Mass. Feb. 27, 2020), *appeal dismissed sub nom. Arkansas Tchr. Ret. Sys. v. State St. Corp.*, No. 20-1365, 2020 WL 5793216 (1st Cir. Sept. 3, 2020) (same); *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132, at *34 (N.D. Ga. Jan. 13, 2020) (same); *In re Transpacific Passenger Air Transp. Antitrust Litig.*, No. 3:07-cv-05634-CRB, 2019 WL 6327363, at *4–5 (N.D. Cal. Nov. 26, 2019) (same); *Espinal v. Victor's Cafe 52nd St., Inc.*, No. 16-CV-8057 (VEC), 2019 WL 5425475, at *2 (S.D.N.Y. Oct. 23, 2019) (same); *James v. China Grill Mgmt., Inc.*, No. 18 Civ. 455 (LGS), 2019 WL 1915298, at *2 (S.D.N.Y. Apr. 30, 2019) (same); *Grice v. Pepsi Beverages Co.*, 363 F. Supp. 3d 401, 407 (S.D.N.Y. 2019) (same); *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, No. 14-CV-7126 (JMF), 2018 WL 6250657, at *2 (S.D.N.Y. Nov. 29, 2018) (same); *Rodman v. Safeway Inc.*, No. 11-cv-03003-JST, 2018 WL 4030558, at *5 (N.D. Cal. Aug. 23, 2018) (same); *Little v. Washington Metro. Area Transit Auth.*, 313 F. Supp. 3d 27, 38 (D.D.C. 2018) (same); *Hillson v. Kelly Servs. Inc.*, No. 2:15-cv-10803, 2017 WL 3446596, at *4 (E.D. Mich. Aug. 11, 2017) (same); *Good v. W. Virginia-Am. Water Co.*, No. 14-1374, 2017 WL 2884535, at *23, *27 (S.D.W. Va. July 6, 2017) (same); *McGreevy v. Life Alert Emergency Response, Inc.*, 258 F. Supp. 3d 380, 385 (S.D.N.Y. 2017) (same); *Brown v. Rita's Water Ice Franchise Co. LLC*, No. 15–3509, 2017 WL 1021025, at *9 (E.D. Pa. Mar. 16, 2017) (same); *In re Credit Default Swaps Antitrust Litig.*, No. 13MD2476 (DLC), 2016 WL 2731524, at *17 (S.D.N.Y. Apr. 26, 2016) (same); *Gehrich v. Chase Bank USA, N.A.*, 316 F.R.D. 215, 236 (N.D. Ill. 2016); *Ramah Navajo Chapter v. Jewell*, 167 F. Supp 3d 1217, 1246 (D.N.M. 2016); *In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 3:07-cv-5944 JST, 2016 WL 721680, at *42 (N.D. Cal. Jan. 28, 2016) (same); *In re Pool Products Distribution Mkt. Antitrust Litig.*, No. MDL 2328, 2015 WL 4528880, at *19–20 (E.D. La. July 27, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11–cv–4462, 2015 WL 2147679, at *2–4 (N.D. Ill. May 6, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11–cv–4462, 2015 WL 1399367, at *3–5 (N.D. Ill. Mar. 23, 2015) (same); *In re Capital One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 797 (N.D. Ill. 2015) (same); *In re Neurontin Marketing and Sales Practices Litig.*, 58 F.Supp.3d 167, 172 (D. Mass. 2014) (same); *Tennille v. W. Union Co.*, No. 09–cv–00938–JLK–KMT, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014) (same); *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 349–51 (S.D.N.Y. 2014) (same); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, 991 F. Supp.

4. In addition to my empirical works, I have also published many law-and-economics papers on the incentives of attorneys and others in class action litigation. *See, e.g.*, Brian T. Fitzpatrick, *A Fiduciary Judge's Guide to Awarding Fees in Class Actions*, 89 Fordham L. Rev. 1151 (2021) (hereinafter "*A Fiduciary Judge*"); Brian T. Fitzpatrick, *Do Class Action Lawyers Make Too Little*, 158 U. Pa. L. Rev. 2043 (2010) (hereinafter "*Class Action Lawyers*"); Brian T. Fitzpatrick, *The End of Objector Blackmail?*, 62 Vand. L. Rev. 1623 (2009). Much of this work was discussed in a book published recently by the University of Chicago Press entitled THE CONSERVATIVE CASE FOR CLASS ACTIONS (2019). The thesis of the book is that the so-called "private attorney general" is superior to the public attorney general in the enforcement of the rules that free markets need to operate effectively and that courts should provide proper incentives to encourage such private attorney general behavior. This work, too, has been relied upon by courts and scholars,[2] and I will also draw upon it in this declaration.

5. I have been asked by class counsel to opine on whether the attorneys' fees they have requested are reasonable in light of the empirical studies and research on economic incentives in class actions. In order to formulate my opinion, I reviewed a number of documents provided to

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2d 437, 444–46 & n.8 (E.D.N.Y. 2014) (same); *In re Fed. Nat'l Mortg. Association Sec., Derivative, and "ERISA" Litig.*, 4 F. Supp. 3d 94, 111–12 (D.D.C. 2013) (same); *In re Vioxx Prod. Liab. Litig.*, No. 11–1546, 2013 WL 5295707, at *3–4 (E.D. La. Sep. 18, 2013) (same); *In re Black Farmers Discrimination Litig.*, 953 F. Supp. 2d 82, 98–99 (D.D.C. 2013) (same); *In re Se. Milk Antitrust Litig.*, No. 2:07–CV 208, 2013 WL 2155387, at *2 (E.D. Tenn., May 17, 2013) (same); *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1081 (S.D. Tex. 2012) (same); *Pavlik v. FDIC*, No. 10 C 816, 2011 WL 5184445, at *4 (N.D. Ill. Nov. 1, 2011) (same); *In re Black Farmers Discrimination Litig.*, 856 F. Supp. 2d 1, 40 (D.D.C. 2011) (same); *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1033 (N.D. Ill. 2011) (same); *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 359 (E.D.N.Y. 2010) (same).

[2] *See, e.g.*, *Briseno v. Henderson*, 998 F.3d 1014, 1025, 1029 (9th Cir. 2021) (citing THE CONSERVATIVE CASE FOR CLASS ACTIONS); *Muransky v. Godiva Chocolatier, Inc.*, 979 F.3d 917, 960 (11th Cir. 2020) (Jordan, J., dissenting) (same); *Tershakovec v. Ford Motor Co.*, 2021 WL 2700347, at *18 (S.D. Fla. July 1, 2021) (same); *Vita Nuova, Inc. v. Azar*, 2020 WL 8271942, at *3 n.5 (N.D. Tex. Dec. 2, 2020) (same).

me by class counsel; I have attached a list of these documents (and noted how I refer to these documents herein) in Exhibit C. As I will explain, it is my opinion that the request here is indeed supported by the empirical studies and research on economic incentives.

II. Case background

6. The plaintiffs, pastors and other personnel of the AME Church, contend that the defendants, the Church, its various entities, and its various financial advisors (including Newport Group), violated various state laws in the mismanagement and misrepresentation of their retirement benefits. Several lawsuits around the country were filed beginning in the spring of 2022 and they were all consolidated before this court by the Judicial Panel on Multidistrict Litigation in June 2022. Thereafter, the court denied (in part) the first round of motions to dismiss and a second round of motions remains pending. In the meantime, the parties have almost completed discovery, including more than 50 depositions, review of nearly 1.5 million pages of documents, initial expert disclosures, and numerous interrogatories and third-party subpoenas. The plaintiffs have now reached class-wide settlements with the AME-related defendants and Newport Group. This court conditionally certified a settlement class and preliminarily approved the settlement on March 24, 2025. The parties are now moving for final approval and class counsel have requested a fee award.

7. The settlement class includes "all persons who were participants, or were those participants' respective beneficiaries entitled to benefits, in the African Methodist Episcopal Church Ministerial Retirement Annuity Plan on June 30, 2021." AME Settlement ¶ 2.6; Newport Agreement ¶ 2.7. Under the terms of the settlement, the AME defendants and Newport Group will together pay $60 million in cash to class members. *See* AME Settlement ¶ 2.29; Newport Agreement ¶ 2.30. Interest has already started to accrue on some of that money; therefore, the total

monetary value of the Settlements is greater than $61,000,000. (ECF 750-4 ¶ 39). This money will be allocated *pro rata* among class members in proportion to their relative retirement account balances. *See* AME Settlement ¶ 4.1; Newport Agreement ¶ 4.1.1. The money will be deposited into a professionally-managed trust that class members can draw from when they retire or otherwise become eligible to access their accounts; none of it can revert back to the defendants. *See* AME Settlement ¶ 4.0; Newport Agreement ¶ 4.0. In addition, the AME defendants have agreed 1) to transfer class members' existing retirement monies to the same professionally-managed trust, 2) to forbid any AME-related person or entity from receiving any monies, such as from third-party contractors, related to the retirement investments, and 3) to henceforth govern the plan in accordance with ERISA principles. *See* AME Settlement ¶ 3.4. In exchange, class members will release the AME defendants and Newport from, among other things, "any and all claims" relating to the allegations in the lawsuit. *See* AME Settlement ¶ 10.1; Newport Agreement ¶ 2.26.

8. Class counsel have now moved the court to award them fees equal to one-third of the AME and Newport Settlement Amounts and of the interest earned on the Settlement Amounts prior to distribution in attorneys' fees. As I explain below, it is my opinion that this request is supported by the empirical studies and research on economic incentives in class action litigation.

III. Assessment of the reasonableness of the request for attorneys' fees

9. This settlement is a so-called "common fund" settlement, where efforts by counsel have created a cash fund for the benefit of class members. When a class action reaches settlement or judgment and no fee shifting statute is triggered and the defendant has not agreed to pay class counsel's fees, class counsel is paid by the class members themselves pursuant to the common law

of unjust enrichment. This is sometimes called the "common fund" or "common benefit" doctrine. It requires the court to decide how much of their class action proceeds it is fair to ask class members to pay to class counsel.

10. At one time, courts that awarded fees in common fund cases did so using the familiar lodestar approach. *See* Fitzpatrick, *Class Action Lawyers*, *supra*, at 2051; *Court Awarded Attorney Fees: Report of the Third Circuit Task Force*, *reprinted in* 108 F.R.D. 237, 242–46 (1985) (hereinafter "Third Circuit Task Force"). Under this approach, courts awarded counsel a fee equal to the number of hours they worked on the case (to the extent the hours were reasonable), multiplied by a reasonable hourly rate as well as by a discretionary multiplier that courts often based on the risk of non-recovery and other factors. *See* Fitzpatrick, *Class Action Lawyers*, *supra*, at 2051. Over time, however, the lodestar approach fell out of favor in common fund cases because it was difficult to calculate the lodestar (courts had to review voluminous time records and the like) and the method did not align the interests of counsel with the interests of the plaintiffs (because counsel's recovery did not depend on how much the plaintiffs recovered). *See id.* at 2051–52; *Third Circuit Task Force*, *supra*, at 246–49. According to my empirical study, the lodestar method is now used to award fees in only a small percentage of cases, usually where the settlement calls for more substantial non-monetary relief or involves a fee-shifting statute. *See* Fitzpatrick, *Empirical Study*, *supra*, at 832 (finding the lodestar method used in only 12% of class action settlements). The other large-scale study of class action fee awards found much the same. *See, e.g.,* Theodore Eisenberg et al., *Attorneys' Fees in Class Actions: 2009–2013*, 92 N.Y.U. Law Review 937, 945 (2017) (hereinafter "Eisenberg-Miller 2017") (finding the lodestar method used only 6.29% of the time from 2009-2013, down from 13.6% from 1993–2002 and 9.6% from 2003–2008).

11. The more popular method of calculating attorneys' fees is known as the "percentage method." Under this approach, courts select a percentage that they believe is fair to counsel, multiply the settlement amount by that percentage, and then award counsel the resulting product. The percentage approach has the advantages of being easy to calculate (because courts need not review voluminous time records and the like) and of aligning the interests of counsel with the interests of the plaintiffs (because the more the class recovers, the more class counsel receives). *See* Fitzpatrick, *Class Action Lawyers, supra,* at 2052.

12. In the Sixth Circuit, district courts have the discretion to use either the lodestar method or the percentage method in common fund cases. *See Gascho v. Global Fitness Holdings*, 822 F.3d 269, 280 (6th Cir. 2016) ("District courts have the discretion to select the particular method of calculation . . . ."); *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) ("The lodestar method better accounts for the amount of work done, while the percentage of the fund method more accurately reflects the results achieved. For these reasons, it is necessary that district courts be permitted to select the more appropriate method for calculating attorney's fees in light of . . . the unique circumstances of the actual cases before them.").

13. In light of the well-recognized disadvantages of the lodestar method and the well-recognized advantages of the percentage method, it is my opinion that courts should generally use the percentage method whenever the value of the settlement can be reliably calculated and the lodestar method is not required by a fee-shifting statute. That is the case here. This is not just my opinion. It is the consensus opinion of class action scholars. *See* American Law Institute, Principles of the Law of Aggregate Litigation § 3.13(b) (2010) ("[A] percentage-of-the-fund approach should be the method utilized in most common-fund cases."). It is also the consensus opinion of clients who hire contingent legal representation in the market: whether sophisticated

clients or unsophisticated clients, they all use the percentage method rather than the lodestar method. *See* Fitzpatrick, *Fiduciary Judge*, *supra*, at 1159-64. This is important because courts say they act as "fiduciaries" for absent class members. *See id.* at 1152, 1154-55. This strongly suggests that courts should choose fee arrangements for class members that class members would choose for themselves. *See id*. Thus, it is my opinion that the percentage method should be used here. I will therefore proceed under that method.

14. Under the percentage method, courts usually consider a number of different factors. *See* Fitzpatrick, *Empirical Study, supra*, at 832. In the Sixth Circuit, courts usually consider the following list of factors: "(1) the value of the benefit rendered to the plaintiff[s]; (2) the value of the services on an hourly basis; (3) whether the services were undertaken on a contingent fee basis; (4) society's stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (5) the complexity of the litigation; and (6) the professional skill and standing of counsel involved on both sides." *Gascho*, 822 F.3d at 280 (quoting *Moulton v. U.S. Steel Corp.*, 581 F.3d 344, 352 (6th Cir. 2009)); *accord Bowling v. Pfizer, Inc.,* 102 F.3d 777, 780 (6th Cir. 1996); *Smillie v. Park Chem. Co.*, 710 F.2d 271, 275 (6th Cir. 1983). This list is not exclusive. Courts often consider other factors, including, perhaps most frequently, (7) how the requested fee lines up with awards in other cases. *See, e.g.*, *In re Cardinal Health Inc. Securities Litigations*, 528 F.Supp.2d 752, 754 & n.2 (S.D. Ohio 2007); *In re Southeastern Milk Antitrust Litigation*, 2013 WL 2155387, at *3 (E.D. Tenn., May 17, 2013). As I now explain, class counsel's fee request is supported by all of these factors.

15. Consider first the factor: "(4) society's stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others." In order to intelligently assess counsel's fee request, it is helpful to consider the role that class action lawyers play in our system of civil

justice and how their fees can influence that role. As I explained in THE CONSERVATIVE CASE FOR CLASS ACTIONS, class action lawyers perform a necessary law enforcement role in our country—which is why they are often referred to as "private" attorneys general. In Europe, countries rely much more on the government to do things than we do. But, in America, we believe more strongly in the self-help of the private sector, including the private attorney general. Thus, we need class action lawyers because it is neither possible nor desirable for cash-strapped and politically-comprised "public" attorneys general to police all wrongdoing. It is also impossible for individual litigants to police all wrongdoing: sometimes individual claims are too small to be viable on their own, and, even when they are viable, individuals do not have the incentive to invest in one claim the same way a defendant facing many similar claims does; as a result, the playing field between individual plaintiffs and defendants is often not level. *See* Fitzpatrick, *Class Action Lawyers, supra*, at 2059. Class action lawyers level the playing field and overcome the enforcement gap that would otherwise exist in our country by aggregating non-viable and underinvested claims into effective litigation vehicles. *See id*.

16. But lawyers are rational economic actors like anyone else. They will only bring lawsuits and optimally invest in them if they are compensated adequately. These decisions tell lawyers in future cases what they can expect to receive if they invest in a new case and ultimately win it. Accordingly, in my opinion, courts should set fee awards such that future lawyers will make the best decisions about what cases to file and how to resolve them. In my view, this means courts should set fees such that lawyers will have incentives 1) to bring as many meritorious cases as possible and 2) to litigate those cases in a way that maximizes the resulting compensation for the class and the deterrence of future wrongdoing.

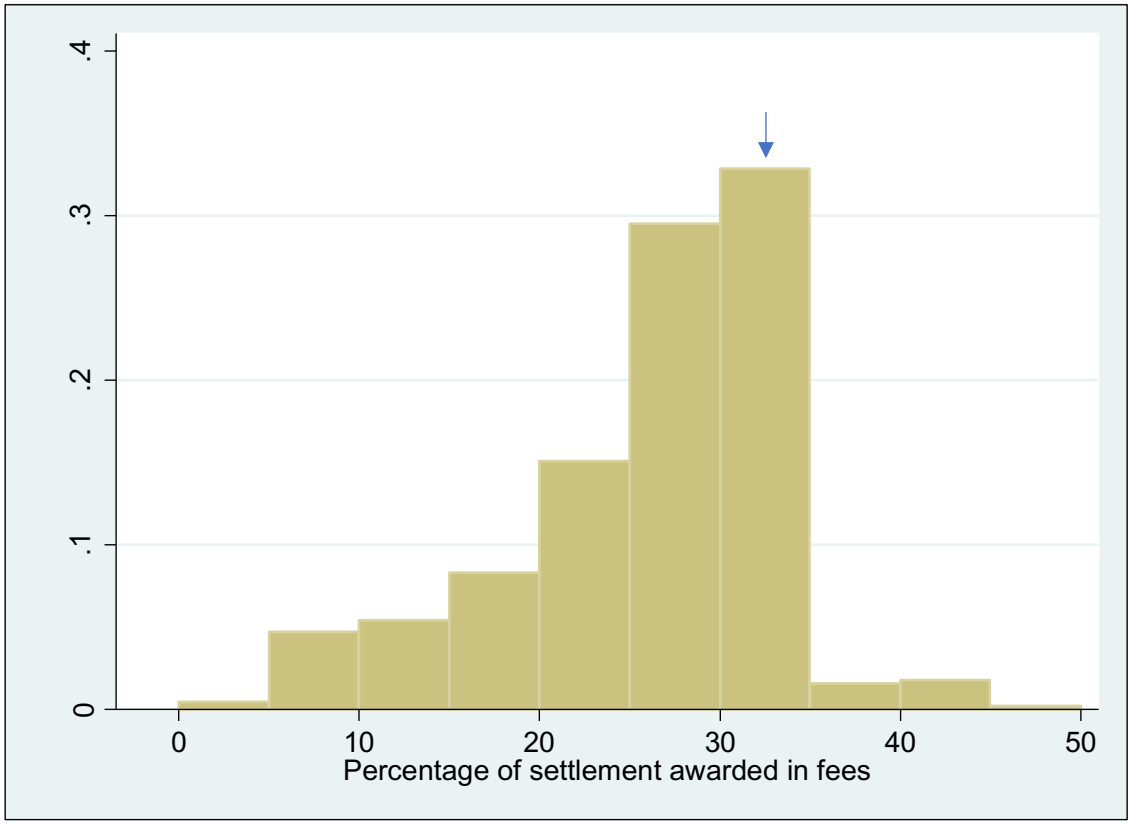
17. In this case, there is little doubt the case has merit. The complaint survived the first round of motions to dismiss and was unlikely to be dismissed on the second round because the amended complaint includes the same claims that were not dismissed during the first round. Moreover, government enforcers have done absolutely nothing to redress the plaintiffs' injuries. Finally, the losses class members have incurred are far too small in comparison to the cost of prosecuting such claims to expect them to come forward and seek redress on their own. Thus, it is only because of class counsel that the defendants will be held accountable here. Lawyers need adequate incentives to take meritorious cases when no one else has, and then to prosecute them to the fullest. The way we do that is to give them a proper percentage of what they recover. In my opinion, the percentage requested here will help further the social goal of appropriately incentivizing lawyers to invest the right amount of time and money in meritorious cases like this one in the future.

18. Consider next factor (7): the percentages awarded in other cases. As I explained above, my empirical study represents an unbiased and representative sample of the fees awarded by federal courts. According to my study, the most common percentages awarded by federal district courts nationwide using the percentage method were 25%, 30%, and 33%, with nearly two-thirds of awards between 25% and 35%, and with a mean award of 25.4% and a median award of 25%. *See* Fitzpatrick, *Empirical Study, supra*, at 833–34, 838. The percentage requested here would therefore be above average, but very common. The other large-scale study of class action fees found much the same, *see* Theodore Eisenberg & Geoffrey P. Miller, *Attorneys' Fees and Expenses in Class Action Settlements: 1993–2008*, 7 J. Empirical L. Stud. 248, 260 (2010) (hereinafter "Eisenberg-Miller 2010") (finding mean and median of 24% and 25% nationwide before 2009), but with the possibility that percentages have been even higher in more recent years.

For example, Eisenberg and Miller found a mean award of 27% and a median award of 29% between 2009 and 2013. *See Eisenberg-Miller 2017*, *supra*, at 951.

19. This data can be depicted graphically. In Figure 1, below, I show the distribution of all the percentage-method fee awards in my study. The Figure shows what fraction of settlements (y-axis) had fee awards within each five-point range of fee percentages (x-axis); each bar includes the number on its left edge and excludes the number on its right edge. I included an arrow depicting this fee request. As the Figure shows, the request here is in the meatiest range of the curve. In other words, this is a very typical request.

Figure 1: Percentage-method fee awards among all federal courts, 2006-2007



20. The same is true if we look at only Sixth Circuit awards. In my study, the average and median fees awarded by courts in the Sixth Circuit using the percentage method were even higher than the nationwide numbers: 26.1% and 28%, respectively. *See* Fitzpatrick, *Empirical*

Study, supra, at 836. Again, the other large-scale empirical study of fee awards found similar numbers, *see Eisenberg-Miller 2010*, *supra*, at 260 (finding both mean and median of 23% in the Sixth Circuit before 2009), including, again, the possibility of even higher awards in the most recent years. For example, Eisenberg and Miller found a mean in the Sixth Circuit of 26% and a median of 30% between 2009 and 2013. *See Eisenberg-Miller 2017*, *supra*, at 951. Thus, even when measured against Sixth Circuit data, the fee request is very common even if slightly above average.[3] In my opinion, the remaining factors show that an above-average fee award is warranted here.

21. Consider next the factors that go to the results obtained by class counsel in light of the risks presented by this litigation: "(1) the value of the benefit rendered to the plaintiff[s]," "(5) the complexity of the litigation," and "(6) the professional skill and standing of counsel involved on both sides." With regard to the results, the class is receiving a sum certain of $61 million. This amounts to about 27% the class's maximum potential damages. By itself, this would compare very well to other class action recoveries. Although we do not yet have any studies of typical class recoveries in ERISA-type cases, the areas we do have show the recovery here is better than most. *See Recent Trends in Securities Class Action Litigation: 2024 Full-Year Review*, at p. 27 (fig. 24) (finding the median percentage of investor losses recovered in securities fraud class actions has varied from 1.2% to 2.5% over the last 10 years); John M. Connor & Robert H. Lande*, Not Treble Damages: Cartel Recoveries are Mostly Less Than Single Damages,* 100 Iowa L. Rev. 1997, 2010 (2015) (finding the weighted average of recoveries—the authors' preferred measure—to be 19%

[3] Some courts cut fee percentages for especially big settlements. *See* Fitzpatrick, *Empirical Study, supra*, at 837-38. In my opinion, this practice is counterproductive and fails to adhere to factors (3) and (4) for reasons similar to those I note below with respect to the lodestar crosscheck, *see* Fitzpatrick, *A Fiduciary Judge*, at 1167, but that is neither here nor there in this case because courts do not usually start cutting percentages unless the settlement is over $100 million, *see* Fitzpatrick, *Empirical Study, supra*, at 839.

of single damages and 6% of treble damages for antitrust class actions between 1990 and 2014). This is the case even though class counsel is not done yet: there are other defendants remaining and they can only add to this recovery.

22. It is true that results can only be assessed meaningfully against the risks. If this had been a slam dunk case, maybe the recovery would not be so impressive. But this was no slam dunk case. At the time the initial and consolidated complaints were filed, the potential liability of non-AMEC defendants like Newport was extremely uncertain. Although subsequent discovery strengthened the liability case, Plaintiffs were always going to face an uphill battle to hold outside entities liable for the damage to the Plan. Conversely, although the legal arguments for AMEC's liability were stronger, the amount of total damages (even under conservative estimates) was clearly beyond the Church's ability to pay. The multiplicity of defendants also created the risk that the jury would be confused or disenchanted by endless rounds of finger-pointing and cross-claims between the parties. Thus, no matter how you look at it, by themselves or compared to the risks, the results here are above average. In my opinion, this is reason enough to award class counsel an above-average—but still common—fee percentage.

23. But there are more reasons: the settlement includes more than just the $60+ million in cash; it also includes structural relief that is designed to confer better retirement benefits in the future on class members through more professional management. It is difficult to value these benefits and class counsel have not attempted to do so. Thus, it is not possible to award class counsel a percentage of this relief. But that doesn't mean it should be ignored: to the contrary, it means, in my opinion, that class counsel should be awarded an even higher percentage than otherwise from the cash portion of the settlement. *See, e.g.*, *Staton v. Boeing Co.*, 327 F.3d 938, 974 (9th Cir. 2003) ("[W]here the value to individual class members of benefits deriving from

injunctive relief can[not] be accurately ascertained . . . courts should consider the value of the injunctive relief obtained as a 'relevant circumstance' in determining what percentage of the common fund class counsel should receive as attorneys' fees . . . ."). I say this is because it is important to find some way to compensate counsel for securing relief that is difficult to quantify; otherwise, counsel would be disincentivized to go after it, even when it would be of great benefit to the class. Most class settlements do not include non-monetary relief like this. *See* Fitzpatrick, *Empirical Study, supra*, at 824 (finding only 25% of settlements with such relief). Thus, this is yet another reason to award class counsel an above-average fee percentage.

24. Consider finally factors: "(3) whether the services were undertaken on a contingent fee basis" and "(2) the value of the services on an hourly basis." Of course, the services rendered here were very valuable—class counsel have worked thousands and thousands of hours—and, of course, all this work was undertaken on contingency. This is important because the percentage class counsel requested is the most common percentage selected by clients—including sophisticated corporate clients—in the market for contingent legal representation. *See* Fitzpatrick, *A Fiduciary Judge, supra*, at 1159-63. In my opinion, if this percentage is good enough for sophisticated corporations, then it should be good enough for class members. *See id.* at 1167-70. Indeed, in my opinion, that is all that needs to be said to find that these factors support the fee request.

25. But some courts go further under factor (2) and calculate class counsel's "lodestar" to "crosscheck" it against the percentage method. In my opinion, this is inconsistent with both factor (3) and factor (4), above. It is inconsistent with factor (3) because it is well known that clients who hire lawyers on contingency—including sophisticated corporations—do not use lodestar crosschecks on their fee percentages because of the dysfunctional incentives they create.

See Fitzpatrick, *Fiduciary Judge*, *supra*, at 1167. But if no one who hires lawyers on contingency use crosschecks, why should class members be saddled with them? In my opinion, they should not. Indeed, as I noted above, courts say they serve as fiduciaries for class members, but fiduciaries don't force on their principals arrangements their principals don't want. *See, e.g.*, Fitzpatrick, *Fiduciary Judge*, *supra*, at 1154–55; Fitzpatrick, The Conservative Case for Class Actions 93–95. It is inconsistent with factor (4) because courts should not hobble class counsel with fee arrangements that undermine their incentives to recover the most for the class. It is well known that lodestar crosschecks do this by capping the amount of compensation counsel can receive from a settlement, no matter how much they recover. *See* Fitzpatrick, *Class Action Lawyers*, at 2065–66; Fitzpatrick, *Fiduciary Judge*, *supra*, at 1167.[4]

26. Nonetheless, because class counsel have submitted their lodestar, I will comment on whether the lodestar crosscheck changes my opinion about the fee request: it does not. If the court grants the fee petition, the multiplier class counsel would earn on their time would be only 1.21. This would be better than normal even in a run-of-the-mill class action, *see* Fitzpatrick, *Empirical Study, supra*, at 834. (finding multipliers ranging from .07 to 10.3 with a mean of 1.65 and a median of 1.34); *Eisenberg-Miller 2010, supra*, at 272 (finding mean multiplier of 1.81 before 2009); *Eisenberg-Miller 2017, supra*, at 965 (finding mean multiplier of 1.48 since 2009),

[4] Consider the following examples. Suppose a lawyer had worked on a case for 1 year and accrued a lodestar of $1 million. If the lawyer believed that a court would award it a fee of 33% or 1.5 times his lodestar, whichever was lesser, then *he would be completely indifferent* between accepting a settlement offer at this point of $4.5 million and $45 million; either way his fee would be $1.5 million. Needless to say, the incentive to be indifferent as to the size of the settlement is good for neither the compensation nor the deterrence goals of class action litigation. Or suppose the lawyer had been offered $9 million after one year of work. If the lawyer again believed the court would not award a fee of 33% unless it was no more than 1.5 times his lodestar, *the lawyer would want to delay accepting the settlement* until he could generate another $1 million in lodestar and thereby reap the maximum fee ($3 million). Again, dragging cases along without adding compensatory or deterrence value does not serve the goals of class action litigation.

but it is far better than normal in a class action with a recovery as large as this one. *See Eisenberg-Miller 2010*, *supra*, at 274 (finding mean and median multiplier of 2.70 and 2.09, respectively, for settlements between $69.6 million and $175.5 million); *Eisenberg-Miller 2017, supra*, at 967 (finding mean and median 2.72 and 1.5, respectively, for settlements above $67.5 million). In other words, granting the fee percentage here would result in a below-average return on class counsel's time. Thus, even if the lodestar crosscheck is performed, in my opinion it supports class counsel's requested fee percentage.

27. Indeed, if anything, the lodestar crosscheck shows the fee request is too low, not too high. That is, class counsel should be receiving an above-average return on their time, not a below-average return. Again, factor (3) shows why. The contingent nature of the representation here means that class counsel placed thousands of hours of time at risk. Contingency counsel should be able to recover some premium above the value of that time to compensate them for the risk they took. Otherwise, harkening back to factor (4), they will not be incentivized to properly invest in class action cases. Yet, for the reasons I stated above, the risks class counsel took on here were greater than in most class actions, not lesser. Similarly, the contingent nature of the representation means that class counsel has worked for years for free. Contingency counsel should be able to recover some premium above the value of their time to compensate them for this delay in payment. Otherwise, again, they will be not be incentivized properly. Yet, the delay class counsel has endured has already been longer than the delay in most class actions, not shorter. *See* Fitzpatrick, *Empirical Study*, *supra*, at 820 (finding average time to final settlement approval slightly above three years and median slightly below three years); *see also* Ted Eisenberg & Geoff Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical L. Stud. 27, 60 (2004) (finding mean and median times of less than 3 years).

28. For all these reasons, I believe the fee award requested here is within the range of reasonable awards in light of the empirical studies and research on economic incentives in class action litigation.

29. My compensation in this matter was a flat fee in no way dependent on the outcome of class counsel's fee petition.

Nashville, TN

May 7, 2025

Brian T. Fitzpatrick

EXHIBIT A

BRIAN T. FITZPATRICK

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ACADEMIC APPOINTMENTS

VANDERBILT UNIVERSITY LAW SCHOOL, *Milton R. Underwood Chair in Free Enterprise*, 2020 to present
- *FedEx Research Professor*, 2014-2015
- *Professor of Law*, 2012 to present
- *Associate Professor*, 2010-2012; *Assistant Professor*, 2007-2010
- Classes: Civil Procedure, Complex Litigation, Federal Courts, Textualism & Originalism
- Hall-Hartman Outstanding Professor Award, 2008-2009 & 2023-2024
- Vanderbilt's Association of American Law Schools Teacher of the Year, 2009

HARVARD LAW SCHOOL, *Visiting Professor*, Fall 2018
- Classes: Civil Procedure, Litigation Finance

FORDHAM LAW SCHOOL, *Visiting Professor*, Fall 2010
- Classes: Civil Procedure

EDUCATION

HARVARD LAW SCHOOL, J.D., *magna cum laude*, 2000
- Fay Diploma (for graduating first in the class)
- Sears Prize, 1999 (for highest grades in the second year)
- *Harvard Law Review*, Articles Committee, 1999-2000; Editor, 1998-1999
- *Harvard Journal of Law & Public Policy*, Senior Editor, 1999-2000; Editor, 1998-1999
- Research Assistant, David Shapiro, 1999; Steven Shavell, 1999

UNIVERSITY OF NOTRE DAME, B.S., Chemical Engineering, *summa cum laude*, 1997
- First runner-up to Valedictorian (GPA: 3.97/4.0)
- Steiner Prize, 1997 (for overall achievement in the College of Engineering)

CLERKSHIPS

HON. ANTONIN SCALIA, Supreme Court of the United States, 2001-2002

HON. DIARMUID O'SCANNLAIN, U.S. Court of Appeals for the Ninth Circuit, 2000-2001

EXPERIENCE

NEW YORK UNIVERSITY SCHOOL OF LAW, Feb. 2006 to June 2007
John M. Olin Fellow

HON. JOHN CORNYN, United States Senate, July 2005 to Jan. 2006
Special Counsel for Supreme Court Nominations

SIDLEY AUSTIN LLP, Washington, DC, 2002 to 2005
Litigation Associate

BOOKS

THE CAMBRIDGE HANDBOOK OF CLASS ACTIONS: AN INTERNATIONAL SURVEY (Cambridge University Press 2021) (ed., with Randall Thomas)

THE CONSERVATIVE CASE FOR CLASS ACTIONS (University of Chicago Press 2019) (winner of the Pound Institute's 2022 Civil Justice Scholarship Award)

BOOK CHAPTERS

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Justice Scalia and Class Actions: A Loving Critique, 92 NOTRE DAME L. REV. 1977 (2017)

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The Hidden Question in Fisher, 10 NYU J. L. & LIBERTY 168 (2016)

An Empirical Look at Compensation in Consumer Class Actions, 11 NYU J. L. & BUS. 767 (2015) (with Robert Gilbert)

The End of Class Actions?, 57 ARIZ. L. REV. 161 (2015)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, 98 VA. L. REV. 839 (2012)

Twombly *and* Iqbal *Reconsidered*, 87 NOTRE DAME L. REV. 1621 (2012)

Originalism and Natural Law, 79 FORD. L. REV. 1541 (2011)

An Empirical Study of Class Action Settlements and their Fee Awards, 7 J. EMPIRICAL L. STUD. 811 (2010) (selected for the 2009 Conference on Empirical Legal Studies)

Do Class Action Lawyers Make Too Little?, 158 U. PA. L. REV. 2043 (2010)

Originalism and Summary Judgment, 71 OHIO ST. L.J. 919 (2010)

The End of Objector Blackmail?, 62 VAND. L. REV. 1623 (2009) (selected for the 2009 Stanford-Yale Junior Faculty Forum)

The Politics of Merit Selection, 74 MISSOURI L. REV. 675 (2009)

Errors, Omissions, and the Tennessee Plan, 39 U. MEMPHIS L. REV. 85 (2008)

Election by Appointment: The Tennessee Plan Reconsidered, 75 TENN. L. REV. 473 (2008)

Can Michigan Universities Use Proxies for Race After the Ban on Racial Preferences?, 13 MICH. J. RACE & LAW 277 (2007)

Strict Scrutiny of Facially Race-Neutral State Action and the Texas Ten Percent Plan, 53 Baylor L. Rev. 289 (2001)

ACADEMIC PRESENTATIONS

The Conservative Case for Private Antitrust Enforcement, American Antitrust Institute Annual Private Enforcement Conference, National Press Club, Washington, DC (October 30, 2024) (panelist)

Hot Topics in Class Action Settlement Approval, National Institute on Class Actions, American Bar Association, Nashville, TN (October 24, 2024) (panelist)

Non-Securities Class Action Settlements Since CAFA, University of Missouri Law School (September 20, 2024)

Do Representative Payments Matter? An Empirical Study, University of Missouri Law School (September 20, 2024)

Non-Securities Class Action Settlements Since CAFA, University of California at Berkeley Law School (September 18, 2024)

Do Representative Payments Matter? An Empirical Study, University of California at Berkeley Law School (September 18, 2024)

Non-Securities Class Action Settlements in CAFA's First Eleven Years, Conference of the European Society for Empirical Legal Studies, Universidad Miguel Hernandez, Elche, Spain (June 21, 2024)

Litigation Financing, Contemporary Issues in Complex Litigation Conference, Northwestern Law School, Chicago, IL (Mar. 7, 2024) (panelist)

Non-Securities Class Action Settlements in CAFA's First Eleven Years, George Mason Law School, Arlington, VA (Feb. 6, 2024)

Agency Costs in Third Party Litigation Finance Reconsidered, Third Party Litigation Funding: The Past, The Present, and The Future Conference, Tel Aviv University Buchmann Faculty of Law, Tel Aviv, Israel (June 14, 2023)

Non-Securities Class Action Settlements in CAFA's First Eleven Years, University of Florida Law School, Gainesville, FL (Feb. 6, 2023)

Entrapment of the Little Guy: Resisting the Erosion of Investor, Employee and Consumer Protections, Institute for Law and Economic Policy, San Diego, CA (Jan. 27, 2023) (panelist)

A New Source of Data for Non-Securities Class Actions, William & Mary Law School, Williamsburg, VA (Nov. 10, 2022)

Can Courts Avoid Politicization in a Polarized America?, American Bar Association Annual Meeting, Chicago, IL (Aug. 5, 2022) (panelist)

A New Source of Data for Non-Securities Class Actions, Seventh Annual Civil Procedure Workshop, Cardozo Law School, New York, NY (May 20, 2022)

Resolution Issues in Class Actions and Mass Torts, Miami Law Class Action & Complex Litigation Forum, University of Miami School of Law, Miami, FL (Mar. 11, 2022) (panelist)

Developments in Discovery Reform, George Mason Law & Economics Center Fifteenth Annual Judicial Symposium on Civil Justice Issues, Charleston, SC (Nov. 16, 2021) (panelist)

Locality Litigation and Public Entity Incentives to File Lawsuits: Public Interest, Politics, Public Finance or Financial Gain?, George Mason Law & Economics Center Symposium on Novel Liability Theories and the Incentives Driving Them, Nashville, TN (Oct. 25, 2021) (panelist)

A Fiduciary Judge's Guide to Awarding Fees in Class Actions, University of California Hastings College of the Law, San Francisco, CA (Nov. 3, 2020)

A Fiduciary Judge's Guide to Awarding Fees in Class Actions, The Judicial Role in Professional Regulation, Stein Colloquium, Fordham Law School, New York, NY (Oct. 9, 2020)

Objector Blackmail Update: What Have the 2018 Amendments Done?, Institute for Law and Economic Policy, Fordham Law School, New York, NY (Feb. 28, 2020)

Keynote Debate: The Conservative Case for Class Actions, Miami Law Class Action & Complex Litigation Forum, University of Miami School of Law, Miami, FL (Jan. 24, 2020)

The Future of Class Actions, National Consumer Law Center Class Action Symposium, Boston, MA (Nov. 16, 2019) (panelist)

The Conservative Case for Class Actions, Center for Civil Justice, NYU Law School, New York, NY (Nov.11, 2019)

Deregulation and Private Enforcement, Class Actions, Mass Torts, and MDLs: The Next 50 Years, Pound Institute Academic Symposium, Lewis & Clark Law School, Portland, OR (Nov. 2, 2019)

Class Actions and Accountability in Finance, Investors and the Rule of Law Conference, Institute for Investor Protection, Loyola University Chicago Law School, Chicago, IL (Oct. 25, 2019) (panelist)

Incentivizing Lawyers as Teams, University of Texas at Austin Law School, Austin, TX (Oct. 22, 2019)

"Dueling Pianos": A Debate on the Continuing Need for Class Actions, National Institute on Class Actions, American Bar Association, Nashville, TN (Oct. 18, 2019) (panelist)

A Debate on the Utility of Class Actions, Contemporary Issues in Complex Litigation Conference, Northwestern Law School, Chicago, IL (Oct.16, 2019) (panelist)

Litigation Funding, Forty Seventh Annual Meeting, Intellectual Property Owners Association, Washington, DC (Sep. 26, 2019) (panelist)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, International Class Actions Conference, Vanderbilt Law School, Nashville, TN (Aug. 24, 2019)

A New Source of Class Action Data, Corporate Accountability Conference, Institute for Law and Economic Policy, San Juan, Puerto Rico (April 12, 2019)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, Ninth Annual Emerging Markets Finance Conference, Mumbai, India (Dec. 14, 2018)

MDL: Uniform Rules v. Best Practices, Miami Law Class Action & Complex Litigation Forum, University of Miami Law School, Miami, FL (Dec. 7, 2018) (panelist)

Third Party Finance of Attorneys in Traditional and Complex Litigation, George Washington Law School, Washington, D.C. (Nov. 2, 2018) (panelist)

MDL at 50 - The 50th Anniversary of Multidistrict Litigation, New York University Law School, New York, New York (Oct. 10, 2018) (panelist)

The Discovery Tax, Law & Economics Seminar, Harvard Law School, Cambridge, Massachusetts (Sep. 11, 2018)

Empirical Research on Class Actions, Civil Justice Research Initiative, University of California at Berkeley, Berkeley, California (Apr. 9, 2018)

A Political Future for Class Actions in the United States?, The Future of Class Actions Symposium, University of Auckland Law School, Auckland, New Zealand (Mar. 15, 2018)

The Indian Class Actions: How Effective Will They Be?, Eighth Annual Emerging Markets Finance Conference, Mumbai, India (Dec. 19, 2017)

Hot Topics in Class Action and MDL Litigation, University of Miami School of Law, Miami, Florida (Dec. 8, 2017) (panelist)

Critical Issues in Complex Litigation, Contemporary Issues in Complex Litigation, Northwestern Law School (Nov. 29, 2017) (panelist)

The Conservative Case for Class Actions, Consumer Class Action Symposium, National Consumer Law Center, Washington, DC (Nov. 19, 2017)

The Conservative Case for Class Actions—A Monumental Debate, National Institute on Class Actions, American Bar Association, Washington, DC (Oct. 26, 2017) (panelist)

One-Way Fee Shifting after Summary Judgment, 2017 Meeting of the Midwestern Law and Economics Association, Marquette Law School, Milwaukee, WI (Oct. 20, 2017)

The Conservative Case for Class Actions, Pepperdine Law School Malibu, CA (Oct. 17, 2017)

One-Way Fee Shifting after Summary Judgment, Vanderbilt Law Review Symposium on The Future of Discovery, Vanderbilt Law School, Nashville, TN (Oct. 13, 2017)

The Constitution Revision Commission and Florida's Judiciary, 2017 Annual Florida Bar Convention, Boca Raton, FL (June 22, 2017)

Class Actions After Spokeo v. Robins*: Supreme Court Jurisprudence, Article III Standing, and Practical Implications for the Bench and Practitioners*, Northern District of California Judicial Conference, Napa, CA (Apr. 29, 2017) (panelist)

The Ironic History of Rule 23, Conference on Secrecy, Institute for Law & Economic Policy, Naples, FL (Apr. 21, 2017)

Justice Scalia and Class Actions: A Loving Critique, University of Notre Dame Law School, South Bend, Indiana (Feb. 3, 2017)

Should Third-Party Litigation Financing Be Permitted in Class Actions?, Fifty Years of Class Actions—A Global Perspective, Tel Aviv University, Tel Aviv, Israel (Jan. 4, 2017)

Hot Topics in Class Action and MDL Litigation, University of Miami School of Law, Miami, Florida (Dec. 2, 2016) (panelist)

The Ideological Consequences of Judicial Selection, William J. Brennan Lecture, Oklahoma City University School of Law, Oklahoma, City, Oklahoma (Nov. 10, 2016)

After Fifty Years, What's Class Action's Future, ABA National Institute on Class Actions, Las Vegas, Nevada (Oct. 20, 2016) (panelist)

Where Will Justice Scalia Rank Among the Most Influential Justices, State University of New York at Stony Brook, Long Island, New York (Sep. 17, 2016)

The Ironic History of Rule 23, University of Washington Law School, Seattle, WA (July 14, 2016)

A Respected Judiciary—Balancing Independence and Accountability, 2016 Annual Florida Bar Convention, Orlando, FL (June 16, 2016) (panelist)

What Will and Should Happen to Affirmative Action After Fisher v. Texas, American Association of Law Schools Annual Meeting, New York, NY (January 7, 2016) (panelist)

Litigation Funding: The Basics and Beyond, NYU Center on Civil Justice, NYU Law School, New York, NY (Nov. 20, 2015) (panelist)

Do Class Actions Offer Meaningful Compensation to Class Members, or Do They Simply Rip Off Consumers Twice?, ABA National Institute on Class Actions, New Orleans, LA (Oct. 22, 2015) (panelist)

Arbitration and the End of Class Actions?, Quinnipiac-Yale Dispute Resolution Workshop, Yale Law School, New Haven, CT (Sep. 8, 2015) (panelist)

The Next Steps for Discovery Reform: Requester Pays, Lawyers for Civil Justice Membership Meeting, Washington, DC (May 5, 2015)

Private Attorney General: Good or Bad?, 17th Annual Federalist Society Faculty Conference, Washington, DC (Jan. 3, 2015)

Liberty, Judicial Independence, and Judicial Power, Liberty Fund Conference, Santa Fe, NM (Nov. 13-16, 2014) (participant)

The Economics of Objecting for All the Right Reasons, 14th Annual Consumer Class Action Symposium, Tampa, FL (Nov. 9, 2014)

Compensation in Consumer Class Actions: Data and Reform, Conference on The Future of Class Action Litigation: A View from the Consumer Class, NYU Law School, New York, NY (Nov. 7, 2014)

The Future of Federal Class Actions: Can the Promise of Rule 23 Still Be Achieved?, Northern District of California Judicial Conference, Napa, CA (Apr. 13, 2014) (panelist)

The End of Class Actions?, Conference on Business Litigation and Regulatory Agency Review in the Era of Roberts Court, Institute for Law & Economic Policy, Boca Raton, FL (Apr. 4, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, University of Missouri School of Law, Columbia, MO (Mar. 7, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, George Mason Law School, Arlington, VA (Mar. 6, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, Roundtable for Third-Party Funding Scholars, Washington & Lee University School of Law, Lexington, VA (Nov. 7-8, 2013)

Is the Future of Affirmative Action Race Neutral?, Conference on A Nation of Widening Opportunities: The Civil Rights Act at 50, University of Michigan Law School, Ann Arbor, MI (Oct. 11, 2013)

The Mass Tort Bankruptcy: A Pre-History, The Public Life of the Private Law: A Conference in Honor of Richard A. Nagareda, Vanderbilt Law School, Nashville, TN (Sep. 28, 2013) (panelist)

Rights & Obligations in Alternative Litigation Financing and Fee Awards in Securities Class Actions, Conference on the Economics of Aggregate Litigation, Institute for Law & Economic Policy, Naples, FL (Apr. 12, 2013) (panelist)

The End of Class Actions?, Symposium on Class Action Reform, University of Michigan Law School, Ann Arbor, MI (Mar. 16, 2013)

Toward a More Lawyer-Centric Class Action?, Symposium on Lawyering for Groups, Stein Center for Law & Ethics, Fordham Law School, New York, NY (Nov. 30, 2012)

The Problem: AT & T as It Is Unfolding, Conference on *AT & T Mobility v. Concepcion*, Cardozo Law School, New York, NY (Apr. 26, 2012) (panelist)

Standing under the Statements and Accounts Clause, Conference on Representation without Accountability*,* Fordham Law School Corporate Law Center, New York, NY (Jan. 23, 2012)

The End of Class Actions?, Washington University Law School, St. Louis, MO (Dec. 9, 2011)

Book Preview Roundtable: Accelerating Democracy: Matching Social Governance to Technological Change, Searle Center on Law, Regulation, and Economic Growth, Northwestern University School of Law, Chicago, IL (Sep. 15-16, 2011) (participant)

Is Summary Judgment Unconstitutional? Some Thoughts About Originalism, Stanford Law School, Palo Alto, CA (Mar. 3, 2011)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Northwestern Law School, Chicago, IL (Feb. 25, 2011)

The New Politics of Iowa Judicial Retention Elections: Examining the 2010 Campaign and Vote, University of Iowa Law School, Iowa City, IA (Feb. 3, 2011) (panelist)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Washington University Law School, St. Louis, MO (Oct. 1, 2010)

Twombly *and* Iqbal *Reconsidered,* Symposium on Business Law and Regulation in the Roberts Court, Case Western Reserve Law School, Cleveland, OH (Sep. 17, 2010)

Do Class Action Lawyers Make Too Little?, Institute for Law & Economic Policy, Providenciales, Turks & Caicos (Apr. 23, 2010)

Originalism and Summary Judgment, Georgetown Law School, Washington, DC (Apr. 5, 2010)

Theorizing Fee Awards in Class Action Litigation, Washington University Law School, St. Louis, MO (Dec. 11, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Conference on Empirical Legal Studies, University of Southern California Law School, Los Angeles, CA (Nov. 20, 2009)

Originalism and Summary Judgment, Symposium on Originalism and the Jury, Ohio State Law School, Columbus, OH (Nov. 17, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Meeting of the Midwestern Law and Economics Association, University of Notre Dame Law School, South Bend, IN (Oct. 10, 2009)

The End of Objector Blackmail?, Stanford-Yale Junior Faculty Forum, Stanford Law School, Palo Alto, CA (May 29, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, University of Minnesota School of Law, Minneapolis, MN (Mar. 12, 2009)

The Politics of Merit Selection, Symposium on State Judicial Selection and Retention Systems, University of Missouri Law School, Columbia, MO (Feb. 27, 2009)

The End of Objector Blackmail?, Searle Center Research Symposium on the Empirical Studies of Civil Liability, Northwestern University School of Law, Chicago, IL (Oct. 9, 2008)

Alternatives To Affirmative Action After The Michigan Civil Rights Initiative, University of Michigan School of Law, Ann Arbor, MI (Apr. 3, 2007) (panelist)

OTHER PUBLICATIONS

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Tennessee's Plan to Appoint Judges Takes Power Away from the Public, THE TENNESSEAN (Mar. 14, 2008)

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OTHER PRESENTATIONS

Ethics & Professionalism, Class Action & Pharmaceutical and Medical Device Sections, American Association for Justice Annual Convention, Nashville, TN (July 21, 2024) (panelist)

Abstention, Tennessee Attorney General's Office Continuing Legal Education, Nashville, TN (Apr. 13, 2022)

The Need for New Lower Court Judgeships, 30 Years in the Making, Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Internet, United States House of Representatives, Washington, D.C. (Feb. 24, 2021)

Does the Way We Choose our Judges Affect Case Outcomes?, American Legislative Exchange Council 2018 Annual Meeting, New Orleans, LA (August 10, 2018) (panelist)

Oversight of the Structure of the Federal Courts, Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts, United States Senate, Washington, D.C. (July 31, 2018)

Where Will Justice Scalia Rank Among the Most Influential Justices, The Leo Bearman, Sr. American Inn of Court, Memphis, TN (Mar. 21, 2017)

Bringing Justice Closer to the People: Examining Ideas for Restructuring the 9th Circuit, Subcommittee on Courts, Intellectual Property, and the Internet, United States House of Representatives, Washington, D.C. (Mar. 16, 2017)

Supreme Court Review 2016: Current Issues and Cases Update, Nashville Bar Association, Nashville, TN (Sep. 15, 2016) (panelist)

A Respected Judiciary—Balancing Independence and Accountability, Florida Bar Annual Convention, Orlando, FL (June 16, 2016) (panelist)

Future Amendments in the Pipeline: Rule 23, Tennessee Bar Association, Nashville, TN (Dec. 2, 2015)

The New Business of Law: Attorney Outsourcing, Legal Service Companies, and Commercial Litigation Funding, Tennessee Bar Association, Nashville, TN (Nov. 12, 2014)

Hedge Funds + Lawsuits = A Good Idea?, Vanderbilt University Alumni Association, Washington, DC (Sep. 3, 2014)

Judicial Selection in Historical and National Perspective, Committee on the Judiciary, Kansas Senate (Jan. 16, 2013)

The Practice that Never Sleeps: What's Happened to, and What's Next for, Class Actions, ABA Annual Meeting, Chicago, IL (Aug. 3, 2012) (panelist)

Life as a Supreme Court Law Clerk and Views on the Health Care Debate, Exchange Club, Nashville, TN (Apr. 3, 2012)

The Tennessee Judicial Selection Process—Shaping Our Future, Tennessee Bar Association Leadership Law Retreat, Dickson, TN (Feb. 3, 2012) (panelist)

Reexamining the Class Action Practice, ABA National Institute on Class Actions, New York, NY (Oct. 14, 2011) (panelist)

Judicial Selection in Kansas, Committee on the Judiciary, Kansas House of Representatives (Feb. 16, 2011)

Judicial Selection and the Tennessee Constitution, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Mar. 24, 2009)

What Would Happen if the Judicial Selection and Evaluation Commissions Sunset?, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Feb. 24, 2009)

Judicial Selection in Tennessee, Chattanooga Bar Association, Chattanooga, TN (Feb. 27, 2008) (panelist)

Ethical Implications of Tennessee's Judicial Selection Process, Tennessee Bar Association, Nashville, TN (Dec. 12, 2007)

PROFESSIONAL ASSOCIATIONS

Referee, Israel Science Foundation
Referee, Journal of Legal Studies
Referee, Journal of Law, Economics and Organization
Referee, Journal of Empirical Legal Studies
Referee, Supreme Court Economic Review
Reviewer, Aspen Publishing
Reviewer, Cambridge University Press
Reviewer, University Press of Kansas
Reviewer, Palgrave Macmillan
Reviewer, Oxford University Press
Reviewer, Routledge
Member, American Law Institute
Member, American Bar Association
Member, Tennessee Advisory Committee to the U.S. Commission on Civil Rights, 2009-2015
Board of Directors, Tennessee Stonewall Bar Association, 2012-2022
American Swiss Foundation Young Leaders' Conference, 2012
Bar Admission, District of Columbia & California (inactive)

COMMUNITY ACTIVITIES

Board of Directors, Beacon Center of Tennessee, 2018-present; Board of Directors, Nashville Ballet, 2011-2017 & 2019-2022; Nashville Talking Library for the Blind, 2008-2009

EXHIBIT B

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JOURNAL OF EMPIRICAL LEGAL STUDIES

Journal of Empirical Legal Studies
Volume 7, Issue 4, 811–846, December 2010

An Empirical Study of Class Action Settlements and Their Fee Awards

*Brian T. Fitzpatrick**

This article is a comprehensive empirical study of class action settlements in federal court. Although there have been prior empirical studies of federal class action settlements, these studies have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). By contrast, in this article, I attempt to study every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first attempt to collect a complete set of federal class action settlements for any given year. I find that district court judges approved 688 class action settlements over this two-year period, involving nearly $33 billion. Of this $33 billion, roughly $5 billion was awarded to class action lawyers, or about 15 percent of the total. Most judges chose to award fees by using the highly discretionary percentage-of-the-settlement method, and the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Fee percentages were strongly and inversely associated with the size of the settlement. The age of the case at settlement was positively associated with fee percentages. There was some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located, with lower percentages in securities cases and in settlements from the Second and Ninth Circuits. There was no evidence that fee percentages were associated with whether the class action was certified as a settlement class or with the political affiliation of the judge who made the award.

I. Introduction

Class actions have been the source of great controversy in the United States. Corporations fear them.[1] Policymakers have tried to corral them.[2] Commentators and scholars have

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Research for this article was supported by Vanderbilt's Cecil D. Branstetter Litigation & Dispute Resolution Program and Law & Business Program. I am grateful for comments I received from Dale Collins, Robin Effron, Ted Eisenberg, Deborah Hensler, Richard Nagareda, Randall Thomas, an anonymous referee for this journal, and participants at workshops at Vanderbilt Law School, the University of Minnesota Law School, the 2009 Meeting of the Midwestern Law and Economics Association, and the 2009 Conference on Empirical Legal Studies. I am also grateful for the research assistance of Drew Dorner, David Dunn, James Gottry, Chris Lantz, Gary Peeples, Keith Randall, Andrew Yi, and, especially, Jessica Pan.

[1]See, e.g., Robert W. Wood, Defining Employees and Independent Contractors, Bus. L. Today 45, 48 (May–June 2008).

[2]See Private Securities Litigation Reform Act (PSLRA) of 1995, Pub. L. No. 104-67, 109 Stat. 737 (codified as amended in scattered sections of 15 U.S.C.); Class Action Fairness Act of 2005, 28 U.S.C. §§ 1453, 1711–1715 (2006).

suggested countless ways to reform them.[3] Despite all the attention showered on class actions, and despite the excellent empirical work on class actions to date, the data that currently exist on how the class action system operates in the United States are limited. We do not know, for example, how much money changes hands in class action litigation every year. We do not know how much of this money goes to class action lawyers rather than class members. Indeed, we do not even know how many class action cases are resolved on an annual basis. To intelligently assess our class action system as well as whether and how it should be reformed, answers to all these questions are important. Answers to these questions are equally important to policymakers in other countries who are currently thinking about adopting U.S.-style class action devices.[4]

This article tries to answer these and other questions by reporting the results of an empirical study that attempted to gather all class action settlements approved by federal judges over a recent two-year period, 2006 and 2007. I use class action settlements as the basis of the study because, even more so than individual litigation, virtually all cases certified as class actions and not dismissed before trial end in settlement.[5] I use federal settlements as the basis of the study for practical reasons: it was easier to identify and collect settlements approved by federal judges than those approved by state judges. Systematic study of class action settlements in state courts must await further study;[6] these future studies are important because there may be more class action settlements in state courts than there are in federal court.[7]

This article attempts to make three contributions to the existing empirical literature on class action settlements. First, virtually all the prior empirical studies of federal class action settlements have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). In this article, by contrast, I attempt to collect every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first to attempt to collect a complete set of federal class action settlements for

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[3]See, e.g., Robert G. Bone, Agreeing to Fair Process: The Problem with Contractarian Theories of Procedural Fairness, 83 B.U.L. Rev. 485, 490–94 (2003); Allan Erbsen, From "Predominance" to "Resolvability": A New Approach to Regulating Class Actions, 58 Vand. L. Rev. 995, 1080–81 (2005).

[4]See, e.g., Samuel Issacharoff & Geoffrey Miller, Will Aggregate Litigation Come to Europe?, 62 Vand. L. Rev. 179 (2009).

[5]See, e.g., Emery Lee & Thomas E. Willing, Impact of the Class Action Fairness Act on the Federal Courts: Preliminary Findings from Phase Two's Pre-CAFA Sample of Diversity Class Actions 11 (Federal Judicial Center 2008); Tom Baker & Sean J. Griffith, How the Merits Matter: D&O Insurance and Securities Settlements, 157 U. Pa. L. Rev. 755 (2009).

[6]Empirical scholars have begun to study state court class actions in certain subject areas and in certain states. See, e.g., Robert B. Thompson & Randall S. Thomas, The Public and Private Faces of Derivative Suits, 57 Vand. L. Rev. 1747 (2004); Robert B. Thompson & Randall S. Thomas, The New Look of Shareholder Litigation: Acquisition-Oriented Class Actions, 57 Vand. L. Rev. 133 (2004); Findings of the Study of California Class Action Litigation (Administrative Office of the Courts) (First Interim Report, 2009).

[7]See Deborah R. Hensler et al., Class Action Dilemmas: Pursuing Public Goals for Private Gain 56 (2000).

any given year.[8] As such, this article allows us to see for the first time a complete picture of the cases that are settled in federal court. This includes aggregate annual statistics, such as how many class actions are settled every year, how much money is approved every year in these settlements, and how much of that money class action lawyers reap every year. It also includes how these settlements are distributed geographically as well as by litigation area, what sort of relief was provided in the settlements, how long the class actions took to reach settlement, and an analysis of what factors were associated with the fees awarded to class counsel by district court judges.

Second, because this article analyzes settlements that were approved in both published and unpublished opinions, it allows us to assess how well the few prior studies that looked beyond securities cases but relied only on published opinions capture the complete picture of class action settlements. To the extent these prior studies adequately capture the complete picture, it may be less imperative for courts, policymakers, and empirical scholars to spend the considerable resources needed to collect unpublished opinions in order to make sound decisions about how to design our class action system.

Third, this article studies factors that may influence district court judges when they award fees to class counsel that have not been studied before. For example, in light of the discretion district court judges have been delegated over fees under Rule 23, as well as the salience the issue of class action litigation has assumed in national politics, realist theories of judicial behavior would predict that Republican judges would award smaller fee percentages than Democratic judges. I study whether the political beliefs of district court judges are associated with the fees they award and, in doing so, contribute to the literature that attempts to assess the extent to which these beliefs influence the decisions of not just appellate judges, but trial judges as well. Moreover, the article contributes to the small but growing literature examining whether the ideological influences found in published judicial decisions persist when unpublished decisions are examined as well.

In Section II of this article, I briefly survey the existing empirical studies of class action settlements. In Section III, I describe the methodology I used to collect the 2006–2007 federal class action settlements and I report my findings regarding these settlements. District court judges approved 688 class action settlements over this two-year period, involving over $33 billion. I report a number of descriptive statistics for these settlements, including the number of plaintiff versus defendant classes, the distribution of settlements by subject matter, the age of the case at settlement, the geographic distribution of settlements, the number of settlement classes, the distribution of relief across settlements, and various statistics on the amount of money involved in the settlements. It should be noted that despite the fact that the few prior studies that looked beyond securities settlements appeared to oversample larger settlements, much of the analysis set forth in this article is consistent with these prior studies. This suggests that scholars may not need to sample unpublished as well as published opinions in order to paint an adequate picture of class action settlements.

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[8]Of course, I cannot be certain that I found every one of the class actions that settled in federal court over this period. Nonetheless, I am confident that if I did not find some, the number I did not find is small and would not contribute meaningfully to the data reported in this article.

In Section IV, I perform an analysis of the fees judges awarded to class action lawyers in the 2006–2007 settlements. All told, judges awarded nearly $5 billion over this two-year period in fees and expenses to class action lawyers, or about 15 percent of the total amount of the settlements. Most federal judges chose to award fees by using the highly discretionary percentage-of-the-settlement method and, unsurprisingly, the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Using regression analysis, I confirm prior studies and find that fee percentages are strongly and inversely associated with the size of the settlement. Further, I find that the age of the case is positively associated with fee percentages but that the percentages were not associated with whether the class action was certified as a settlement class. There also appeared to be some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all other areas, and district courts in some circuits—the Ninth and the Second (in securities cases)—awarded lower fee percentages than courts in many other circuits. Finally, the regression analysis did not confirm the realist hypothesis: there was no association between fee percentage and the political beliefs of the judge in any regression.

II. Prior Empirical Studies of Class Action Settlements

There are many existing empirical studies of federal securities class action settlements.[9] Studies of securities settlements have been plentiful because for-profit organizations maintain lists of all federal securities class action settlements for the benefit of institutional investors that are entitled to file claims in these settlements.[10] Using these data, studies have shown that since 2005, for example, there have been roughly 100 securities class action settlements in federal court each year, and these settlements have involved between $7 billion and $17 billion per year.[11] Scholars have used these data to analyze many different aspects of these settlements, including the factors that are associated with the percentage of

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[9]See, e.g., James D. Cox & Randall S. Thomas, Does the Plaintiff Matter? An Empirical Analysis of Lead Plaintiffs in Securities Class Actions, 106 Colum. L. Rev. 1587 (2006); James D. Cox, Randall S. Thomas & Lynn Bai, There are Plaintiffs and . . . there are Plaintiffs: An Empirical Analysis of Securities Class Action Settlements, 61 Vand. L. Rev. 355 (2008); Theodore Eisenberg, Geoffrey Miller & Michael A. Perino, A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions after *Goldberger v. Integrated Resources, Inc.*, 29 Wash. U.J.L. & Pol'y 5 (2009); Michael A. Perino, Markets and Monitors: The Impact of Competition and Experience on Attorneys' Fees in Securities Class Actions (St. John's Legal Studies, Research Paper No. 06-0034, 2006), available at <http://ssrn.com/abstract=870577> [hereinafter Perino, Markets and Monitors]; Michael A. Perino, The Milberg Weiss Prosecution: No Harm, No Foul? (St. John's Legal Studies, Research Paper No. 08-0135, 2008), available at <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1133995> [hereinafter Perino, Milberg Weiss].

[10]See, e.g., RiskMetrics Group, available at <http://www.riskmetrics.com/scas>.

[11]See Cornerstone Research, Securities Class Action Settlements: 2007 Review and Analysis 1 (2008), available at <http://securities.stanford.edu/Settlements/REVIEW_1995-2007/Settlements_Through_12_2007.pdf>.

the settlements that courts have awarded to class action lawyers.[12] These studies have found that the mean and median fees awarded by district court judges are between 20 percent and 30 percent of the settlement amount.[13] These studies have also found that a number of factors are associated with the percentage of the settlement awarded as fees, including (inversely) the size of the settlement, the age of the case, whether a public pension fund was the lead plaintiff, and whether certain law firms were class counsel.[14] None of these studies has examined whether the political affiliation of the federal district court judge awarding the fees was associated with the size of awards.

There are no comparable organizations that maintain lists of nonsecurities class action settlements. As such, studies of class action settlements beyond the securities area are much rarer and, when they have been done, rely on samples of settlements that were not intended to be representative of the whole. The two largest studies of class action settlements not limited to securities class actions are a 2004 study by Ted Eisenberg and Geoff Miller,[15] which was recently updated to include data through 2008,[16] and a 2003 study by Class Action Reports.[17] The Eisenberg-Miller studies collected data from class action settlements in both state and federal courts found from court opinions published in the Westlaw and Lexis databases and checked against lists maintained by the CCH Federal Securities and Trade Regulation Reporters. Through 2008, their studies have now identified 689 settlements over a 16-year period, or less than 45 settlements per year.[18] Over this 16-year period, their studies found that the mean and median settlement amounts were, respectively, $116 million and $12.5 million (in 2008 dollars), and that the mean and median fees awarded by district courts were 23 percent and 24 percent of the settlement, respectively.[19] Their studies also performed an analysis of fee percentages and fee awards. For the data through 2002, they found that the percentage of the settlement awarded as fees was associated with the size of the settlement (inversely), the age of the case, and whether the

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[12]See, e.g., Eisenberg, Miller & Perino, supra note 9, at 17–24, 28–36; Perino, Markets and Monitors, supra note 9, at 12–28, 39–44; Perino, Milberg Weiss, supra note 9, at 32–33, 39–60.

[13]See, e.g., Eisenberg, Miller & Perino, supra note 9, at 17–18, 22, 28, 33; Perino, Markets and Monitors, supra note 9, at 20–21, 40; Perino, Milberg Weiss, supra note 9, at 32–33, 51–53.

[14]See, e.g., Eisenberg, Miller & Perino, supra note 9, at 14–24, 29–30, 33–34; Perino, Markets and Monitors, supra note 9, at 20–28, 41; Perino, Milberg Weiss, supra note 9, at 39–58.

[15]See Theodore Eisenberg & Geoffrey Miller, Attorney Fees in Class Action Settlements: An Empirical Study, 1 J. Empirical Legal Stud. 27 (2004).

[16]See Theodore Eisenberg & Geoffrey Miller, Attorneys' Fees and Expenses in Class Action Settlements: 1993–2008, 7 J. Empirical Legal Stud. 248 (2010) [hereinafter Eisenberg & Miller II].

[17]See Stuart J. Logan, Jack Moshman & Beverly C. Moore, Jr., Attorney Fee Awards in Common Fund Class Actions, 24 Class Action Rep. 169 (Mar.–Apr. 2003).

[18]See Eisenberg & Miller II, supra note 16, at 251.

[19]Id. at 258–59.

district court went out of its way to comment on the level of risk that class counsel had assumed in pursuing the case.[20] For the data through 2008, they regressed only fee awards and found that the awards were inversely associated with the size of the settlement, that state courts gave lower awards than federal courts, and that the level of risk was still associated with larger awards.[21] Their studies have not examined whether the political affiliations of the federal district court judges awarding fees were associated with the size of the awards.

The Class Action Reports study collected data on 1,120 state and federal settlements over a 30-year period, or less than 40 settlements per year.[22] Over the same 10-year period analyzed by the Eisenberg-Miller study, the Class Action Reports data found mean and median settlements of $35.4 and $7.6 million (in 2002 dollars), as well as mean and median fee percentages between 25 percent and 30 percent.[23] Professors Eisenberg and Miller performed an analysis of the fee awards in the Class Action Reports study and found the percentage of the settlement awarded as fees was likewise associated with the size of the settlement (inversely) and the age of the case.[24]

III. Federal Class Action Settlements, 2006 and 2007

As far as I am aware, there has never been an empirical study of all federal class action settlements in a particular year. In this article, I attempt to make such a study for two recent years: 2006 and 2007. To compile a list of all federal class settlements in 2006 and 2007, I started with one of the aforementioned lists of securities settlements, the one maintained by RiskMetrics, and I supplemented this list with settlements that could be found through three other sources: (1) broad searches of district court opinions in the Westlaw and Lexis databases,[25] (2) four reporters of class action settlements—*BNA Class Action Litigation Report*, *Mealey's Jury Verdicts and Settlements*, *Mealey's Litigation Report*, and the *Class Action World* website[26]—and (3) a list from the Administrative Office of Courts of all district court cases

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[20]See Eisenberg & Miller, supra note 15, at 61–62.

[21]See Eisenberg & Miller II, supra note 16, at 278.

[22]See Eisenberg & Miller, supra note 15, at 34.

[23]Id. at 47, 51.

[24]Id. at 61–62.

[25]The searches consisted of the following terms: ("class action" & (settle! /s approv! /s (2006 2007))); (((counsel attorney) /s fee /s award!) & (settle! /s (2006 2007)) & "class action"); ("class action" /s settle! & da(aft 12/31/2005 & bef 1/1/2008)); ("class action" /s (fair reasonable adequate) & da(aft 12/31/2005 & bef 1/1/2008)).

[26]See <http://classactionworld.com/>.

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coded as class actions that terminated by settlement between 2005 and 2008.[27] I then removed any duplicate cases and examined the docket sheets and court orders of each of the remaining cases to determine whether the cases were in fact certified as class actions under either Rule 23, Rule 23.1, or Rule 23.2.[28] For each of the cases verified as such, I gathered the district court's order approving the settlement, the district court's order awarding attorney fees, and, in many cases, the settlement agreements and class counsel's motions for fees, from electronic databases (such as Westlaw or PACER) and, when necessary, from the clerk's offices of the various federal district courts. In this section, I report the characteristics of the settlements themselves; in the next section, I report the characteristics of the attorney fees awarded to class counsel by the district courts that approved the settlements.

A. Number of Settlements

I found 688 settlements approved by federal district courts during 2006 and 2007 using the methodology described above. This is almost the exact same number the Eisenberg-Miller study found over a *16*-year period in both federal *and* state court. Indeed, the number of annual settlements identified in this study is *several times* the number of annual settlements that have been identified in any prior empirical study of class action settlements. Of the 688 settlements I found, 304 were approved in 2006 and 384 were approved in 2007.[29]

B. Defendant Versus Plaintiff Classes

Although Rule 23 permits federal judges to certify either a class of plaintiffs or a class of defendants, it is widely assumed that it is extremely rare for courts to certify defendant classes.[30] My findings confirm this widely held assumption. Of the 688 class action settlements approved in 2006 and 2007, 685 involved plaintiff classes and only three involved

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[27]I examined the AO lists in the year before and after the two-year period under investigation because the termination date recorded by the AO was not necessarily the same date the district court approved the settlement.

[28]See Fed. R. Civ. P. 23, 23.1, 23.2. I excluded from this analysis opt-in collective actions, such as those brought pursuant to the provisions of the Fair Labor Standards Act (see 29 U.S.C. § 216(b)), if such actions did not also include claims certified under the opt-out mechanism in Rule 23.

[29]A settlement was assigned to a particular year if the district court judge's order approving the settlement was dated between January 1 and December 31 of that year. Cases involving multiple defendants sometimes settled over time because defendants would settle separately with the plaintiff class. All such partial settlements approved by the district court on the same date were treated as one settlement. Partial settlements approved by the district court on different dates were treated as different settlements.

[30]See, e.g., Robert H. Klonoff, Edward K.M. Bilich & Suzette M. Malveaux, Class Actions and Other Multi-Party Litigation: Cases and Materials 1061 (2d ed. 2006).

defendant classes. All three of the defendant-class settlements were in employment benefits cases, where companies sued classes of current or former employees.[31]

C. Settlement Subject Areas

Although courts are free to certify Rule 23 classes in almost any subject area, it is widely assumed that securities settlements dominate the federal class action docket.[32] At least in terms of the number of settlements, my findings reject this conventional wisdom. As Table 1 shows, although securities settlements comprised a large percentage of the 2006 and 2007 settlements, they did not comprise a majority of those settlements. As one would have

Table 1: The Number of Class Action Settlements Approved by Federal Judges in 2006 and 2007 in Each Subject Area

	Number of Settlements	
Subject Matter	*2006*	*2007*
Securities	122 (40%)	135 (35%)
Labor and employment	41 (14%)	53 (14%)
Consumer	40 (13%)	47 (12%)
Employee benefits	23 (8%)	38 (10%)
Civil rights	24 (8%)	37 (10%)
Debt collection	19 (6%)	23 (6%)
Antitrust	13 (4%)	17 (4%)
Commercial	4 (1%)	9 (2%)
Other	18 (6%)	25 (6%)
Total	304	384

NOTE: Securities: cases brought under federal and state securities laws. Labor and employment: workplace claims brought under either federal or state law, with the exception of ERISA cases. Consumer: cases brought under the Fair Credit Reporting Act as well as cases for consumer fraud and the like. Employee benefits: ERISA cases. Civil rights: cases brought under 42 U.S.C. § 1983 or cases brought under the Americans with Disabilities Act seeking nonworkplace accommodations. Debt collection: cases brought under the Fair Debt Collection Practices Act. Antitrust: cases brought under federal or state antitrust laws. Commercial: cases between businesses, excluding antitrust cases. Other: includes, among other things, derivative actions against corporate managers and directors, environmental suits, insurance suits, Medicare and Medicaid suits, product liability suits, and mass tort suits.

SOURCES: Westlaw, PACER, district court clerks' offices.

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[31]See Halliburton Co. v. Graves, No. 04-00280 (S.D. Tex., Sept. 28, 2007); Rexam, Inc. v. United Steel Workers of Am., No. 03-2998 (D. Minn. Aug. 29, 2007); Rexam, Inc. v. United Steel Workers of Am., No. 03-2998 (D. Minn. Sept. 17, 2007).

[32]See, e.g., John C. Coffee, Jr., Reforming the Security Class Action: An Essay on Deterrence and its Implementation, 106 Colum. L. Rev. 1534, 1539–40 (2006) (describing securities class actions as "the 800-pound gorilla that dominates and overshadows other forms of class actions").

expected in light of Supreme Court precedent over the last two decades,[33] there were almost no mass tort class actions (included in the "Other" category) settled over the two-year period.

Although the Eisenberg-Miller study through 2008 is not directly comparable on the distribution of settlements across litigation subject areas—because its state and federal court data cannot be separated (more than 10 percent of the settlements were from state court[34]) and because it excludes settlements in fee-shifting cases—their study through 2008 is the best existing point of comparison. Interestingly, despite the fact that state courts were included in their data, their study through 2008 found about the same percentage of securities cases (39 percent) as my 2006–2007 data set shows.[35] However, their study found many more consumer (18 percent) and antitrust (10 percent) cases, while finding many fewer labor and employment (8 percent), employee benefits (6 percent), and civil rights (3 percent) cases.[36] This is not unexpected given their reliance on published opinions and their exclusion of fee-shifting cases.

D. Settlement Classes

The Federal Rules of Civil Procedure permit parties to seek certification of a suit as a class action for settlement purposes only.[37] When the district court certifies a class in such circumstances, the court need not consider whether it would be manageable to try the litigation as a class.[38] So-called settlement classes have always been more controversial than classes certified for litigation because they raise the prospect that, at least where there are competing class actions filed against the same defendant, the defendant could play class counsel off one another to find the one willing to settle the case for the least amount of money.[39] Prior to the Supreme Court's 1997 opinion in *Amchem Products, Inc. v. Windsor*,[40] it was uncertain whether the Federal Rules even permitted settlement classes. It may therefore be a bit surprising to learn that 68 percent of the federal settlements in 2006 and 2007 were settlement classes. This percentage is higher than the percentage found in the Eisenberg-Miller studies, which found that only 57 percent of class action settlements in

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[33]See, e.g., Samuel Issacharoff, Private Claims, Aggregate Rights, 2008 Sup. Ct. Rev. 183, 208.

[34]See Eisenberg & Miller II, supra note 16, at 257.

[35]Id. at 262.

[36]Id.

[37]See Martin H. Redish, Settlement Class Actions, The Case-or-Controversy Requirement, and the Nature of the Adjudicatory Process, 73 U. Chi. L. Rev. 545, 553 (2006).

[38]See Amchem Prods., Inc v Windsor, 521 U.S. 591, 620 (1997).

[39]See Redish, supra note 368, at 557–59.

[40]521 U.S. 591 (1997).

state and federal court between 2003 and 2008 were settlement classes.[41] It should be noted that the distribution of litigation subject areas among the settlement classes in my 2006–2007 federal data set did not differ much from the distribution among nonsettlement classes, with two exceptions. One exception was consumer cases, which were nearly three times as prevalent among settlement classes (15.9 percent) as among nonsettlement classes (5.9 percent); the other was civil rights cases, which were four times as prevalent among nonsettlement classes (18.0 percent) as among settlements classes (4.5 percent). In light of the skepticism with which the courts had long treated settlement classes, one might have suspected that courts would award lower fee percentages in such settlements. Nonetheless, as I report in Section III, whether a case was certified as a settlement class was not associated with the fee percentages awarded by federal district court judges.

E. The Age at Settlement

One interesting question is how long class actions were litigated before they reached settlement. Unsurprisingly, cases reached settlement over a wide range of ages.[42] As shown in Table 2, the average time to settlement was a bit more than three years (1,196 days) and the median time was a bit under three years (1,068 days). The average and median ages here are similar to those found in the Eisenberg-Miller study through 2002, which found averages of 3.35 years in fee-shifting cases and 2.86 years in non-fee-shifting cases, and

Table 2: The Number of Days, 2006–2007, Federal Class Action Cases Took to Reach Settlement in Each Subject Area

Subject Matter	*Average*	*Median*	*Minimum*	*Maximum*
Securities	1,438	1,327	392	3,802
Labor and employment	928	786	105	2,497
Consumer	963	720	127	4,961
Employee benefits	1,162	1,161	164	3,157
Civil rights	1,373	1,360	181	3,354
Debt collection	738	673	223	1,973
Antitrust	1,140	1,167	237	2,480
Commercial	1,267	760	163	5,443
Other	1,065	962	185	3,620
All	1,196	1,068	105	5,443

SOURCE: PACER.

[41]See Eisenberg & Miller II, supra note 16, at 266.

[42]The age of the case was calculated by subtracting the date the relevant complaint was filed from the date the settlement was approved by the district court judge. The dates were taken from PACER. For consolidated cases, I used the date of the earliest complaint. If the case had been transferred, consolidated, or removed, the date the complaint was filed was not always available from PACER. In such cases, I used the date the case was transferred, consolidated, or removed as the start date.

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medians of 4.01 years in fee-shifting cases and 3.0 years in non-fee-shifting cases.[43] Their study through 2008 did not report case ages.

The shortest time to settlement was 105 days in a labor and employment case.[44] The longest time to settlement was nearly 15 years (5,443 days) in a commercial case.[45] The average and median time to settlement varied significantly by litigation subject matter, with securities cases generally taking the longest time and debt collection cases taking the shortest time. Labor and employment cases and consumer cases also settled relatively early.

F. The Location of Settlements

The 2006–2007 federal class action settlements were not distributed across the country in the same way federal civil litigation is in general. As Figure 1 shows, some of the geographic circuits attracted much more class action attention than we would expect based on their docket size, and others attracted much less. In particular, district courts in the First, Second, Seventh, and Ninth Circuits approved a much larger share of class action settlements than the share of all civil litigation they resolved, with the First, Second, and Seventh Circuits approving nearly double the share and the Ninth Circuit approving one-and-one-half times the share. By contrast, the shares of class action settlements approved by district courts in the Fifth and Eighth Circuits were less than one-half of their share of all civil litigation, with the Third, Fourth, and Eleventh Circuits also exhibiting significant underrepresentation.

With respect to a comparison with the Eisenberg-Miller studies, their federal court data through 2008 can be separated from their state court data on the question of the geographic distribution of settlements, and there are some significant differences between their federal data and the numbers reflected in Figure 1. Their study reported considerably higher proportions of settlements than I found from the Second (23.8 percent), Third (19.7 percent), Eighth (4.8 percent), and D.C. (3.3 percent) Circuits, and considerably lower proportions from the Fourth (1.3 percent), Seventh (6.8 percent), and Ninth (16.6 percent) Circuits.[46]

Figure 2 separates the class action settlement data in Figure 1 into securities and nonsecurities cases. Figure 2 suggests that the overrepresentation of settlements in the First and Second Circuits is largely attributable to securities cases, whereas the overrepresentation in the Seventh Circuit is attributable to nonsecurities cases, and the overrepresentation in the Ninth is attributable to both securities and nonsecurities cases.

It is interesting to ask why some circuits received more class action attention than others. One hypothesis is that class actions are filed in circuits where class action lawyers

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[43]See Eisenberg & Miller, supra note 15, at 59–60.

[44]See Clemmons v. Rent-a-Center W., Inc., No. 05-6307 (D. Or. Jan. 20, 2006).

[45]See Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006).

[46]See Eisenberg & Miller II, supra note 16, at 260.

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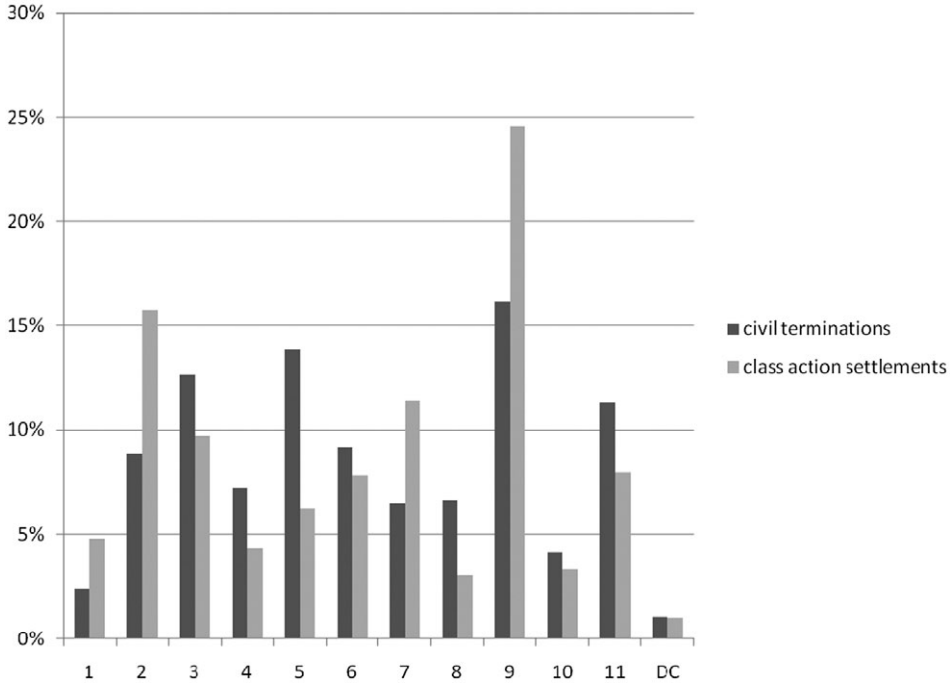
Figure 1: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <http://www.uscourts.gov/stats/index.html>).

believe they can find favorable law or favorable judges. Federal class actions often involve class members spread across multiple states and, as such, class action lawyers may have a great deal of discretion over the district in which file suit.[47] One way law or judges may be favorable to class action attorneys is with regard to attorney fees. In Section III, I attempt to test whether district court judges in the circuits with the most over- and undersubscribed class action dockets award attorney fees that would attract or discourage filings there; I find no evidence that they do.

Another hypothesis is that class action suits are settled in jurisdictions where defendants are located. This might be the case because although class action lawyers may have discretion over where to file, venue restrictions might ultimately restrict cases to jurisdic-

[47]See Samuel Issacharoff & Richard Nagareda, Class Settlements Under Attack, 156 U. Pa. L. Rev. 1649, 1662 (2008).

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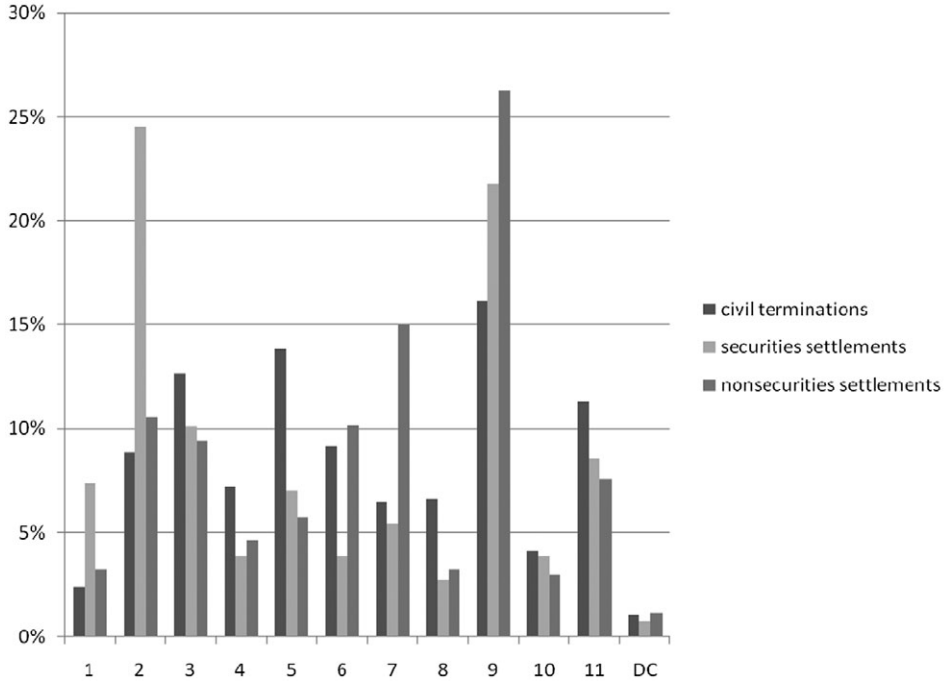
Figure 2: The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.



SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <http://www.uscourts.gov/stats/index.html>).

tions in which defendants have their corporate headquarters or other operations.[48] This might explain why the Second Circuit, with the financial industry in New York, sees so many securities suits, and why other circuits with cities with a large corporate presence, such as the First (Boston), Seventh (Chicago), and Ninth (Los Angeles and San Francisco), see more settlements than one would expect based on the size of their civil dockets.

Another hypothesis might be that class action lawyers file cases wherever it is most convenient for them to litigate the cases—that is, in the cities in which their offices are located. This, too, might explain the Second Circuit's overrepresentation in securities settlements, with prominent securities firms located in New York, as well as the

[48]See 28 U.S.C. §§ 1391, 1404, 1406, 1407. See also Foster v. Nationwide Mut. Ins. Co., No. 07-04928, 2007 U.S. Dist. LEXIS 95240 at *2–17 (N.D. Cal. Dec. 14, 2007) (transferring venue to jurisdiction where defendant's corporate headquarters were located). One prior empirical study of securities class action settlements found that 85 percent of such cases are filed in the home circuit of the defendant corporation. See James D. Cox, Randall S. Thomas & Lynn Bai, Do Differences in Pleading Standards Cause Forum Shopping in Securities Class Actions?: Doctrinal and Empirical Analyses, 2009 Wis. L. Rev. 421, 429, 440, 450–51 (2009).

overrepresentation of other settlements in some of the circuits in which major metropolitan areas with prominent plaintiffs' firms are found.

G. Type of Relief

Under Rule 23, district court judges can certify class actions for injunctive or declaratory relief, for money damages, or for a combination of the two.[49] In addition, settlements can provide money damages both in the form of cash as well as in the form of in-kind relief, such as coupons to purchase the defendant's products.[50]

As shown in Table 3, the vast majority of class actions settled in 2006 and 2007 provided cash relief to the class (89 percent), but a substantial number also provided in-kind relief (6 percent) or injunctive or declaratory relief (23 percent). As would be

Table 3: The Percentage of 2006 and 2007 Class Action Settlements Providing Each Type of Relief in Each Subject Area

Subject Matter	*Cash*	*In-Kind Relief*	*Injunctive or Declaratory Relief*
Securities ($n = 257$)	100%	0%	2%
Labor and employment ($n = 94$)	95%	6%	29%
Consumer ($n = 87$)	74%	30%	37%
Employee benefits ($n = 61$)	90%	0%	34%
Civil rights ($n = 61$)	49%	2%	75%
Debt collection ($n = 42$)	98%	0%	12%
Antitrust ($n = 30$)	97%	13%	7%
Commercial ($n = 13$)	92%	0%	62%
Other ($n = 43$)	77%	7%	33%
All ($n = 688$)	89%	6%	23%

NOTE: Cash: cash, securities, refunds, charitable contributions, contributions to employee benefit plans, forgiven debt, relinquishment of liens or claims, and liquidated repairs to property. In-kind relief: vouchers, coupons, gift cards, warranty extensions, merchandise, services, and extended insurance policies. Injunctive or declaratory relief: modification of terms of employee benefit plans, modification of compensation practices, changes in business practices, capital improvements, research, and unliquidated repairs to property.

SOURCES: Westlaw, PACER, district court clerks' offices.

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[49]See Fed. R. Civ. P. 23(b).

[50]These coupon settlements have become very controversial in recent years, and Congress discouraged them in the Class Action Fairness Act of 2005 by tying attorney fees to the value of coupons that were ultimately redeemed by class members as opposed to the value of coupons offered class members. See 28 U.S.C. § 1712.

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expected in light of the focus on consumer cases in the debate over the anti-coupon provision in the Class Action Fairness Act of 2005,[51] consumer cases had the greatest percentage of settlements providing for in-kind relief (30 percent). Civil rights cases had the greatest percentage of settlements providing for injunctive or declaratory relief (75 percent), though almost half the civil rights cases also provided some cash relief (49 percent). The securities settlements were quite distinctive from the settlements in other areas in their singular focus on cash relief: every single securities settlement provided cash to the class and almost none provided in-kind, injunctive, or declaratory relief. This is but one example of how the focus on securities settlements in the prior empirical scholarship can lead to a distorted picture of class action litigation.

H. Settlement Money

Although securities settlements did not comprise the majority of federal class action settlements in 2006 and 2007, they did comprise the majority of the money—indeed, the *vast majority* of the money—involved in class action settlements. In Table 4, I report the total amount of ascertainable value involved in the 2006 and 2007 settlements. This amount

Table 4: The Total Amount of Money Involved in Federal Class Action Settlements in 2006 and 2007

	Total Ascertainable Monetary Value in Settlements (and Percentage of Overall Annual Total)			
Subject Matter	*2006* (n = *304*)		*2007* (n = *384*)	
Securities	$16,728	76%	$8,038	73%
Labor and employment	$266.5	1%	$547.7	5%
Consumer	$517.3	2%	$732.8	7%
Employee benefits	$443.8	2%	$280.8	3%
Civil rights	$265.4	1%	$81.7	1%
Debt collection	$8.9	<1%	$5.7	<1%
Antitrust	$1,079	5%	$660.5	6%
Commercial	$1,217	6%	$124.0	1%
Other	$1,568	7%	$592.5	5%
Total	$22,093	100%	$11,063	100%

NOTE: Dollar amounts are in millions. Includes all determinate payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.

SOURCES: Westlaw, PACER, district court clerks' offices.

[51]See, e.g., 151 Cong. Rec. H723 (2005) (statement of Rep. Sensenbrenner) (arguing that consumers are "seeing all of their gains go to attorneys and them just getting coupon settlements from the people who have allegedly done them wrong").

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includes all determinate[52] payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.[53] I did not attempt to assign a value to any relief that was not valued by the district court (even if it may have been valued by class counsel). It should be noted that district courts did not often value in-kind or injunctive relief—they did so only 18 percent of the time—and very little of Table 4—only $1.3 billion, or 4 percent—is based on these valuations. It should also be noted that the amounts in Table 4 reflect only what defendants *agreed to pay*; they do not reflect the amounts that defendants *actually paid* after the claims administration process concluded. Prior empirical research has found that, depending on how settlements are structured (e.g., whether they awarded a fixed amount of money to each class member who eventually files a valid claim or a pro rata amount of a fixed settlement to each class member), defendants can end up paying much less than they agreed.[54]

Table 4 shows that in both years, around three-quarters of all the money involved in federal class action settlements came from securities cases. Thus, in this sense, the conventional wisdom about the dominance of securities cases in class action litigation is correct. Figure 3 is a graphical representation of the contribution each litigation area made to the total number and total amount of money involved in the 2006–2007 settlements.

Table 4 also shows that, in total, over $33 billion was approved in the 2006–2007 settlements. Over $22 billion was approved in 2006 and over $11 billion in 2007. It should be emphasized again that the totals in Table 4 understate the amount of money defendants agreed to pay in class action settlements in 2006 and 2007 because they exclude the unascertainable value of those settlements. This understatement disproportionately affects litigation areas, such as civil rights, where much of the relief is injunctive because, as I noted, very little of such relief was valued by district courts. Nonetheless, these numbers are, as far as I am aware, the first attempt to calculate how much money is involved in federal class action settlements in a given year.

The significant discrepancy between the two years is largely attributable to the 2006 securities settlement related to the collapse of Enron, which totaled $6.6 billion, as well as to the fact that seven of the eight 2006–2007 settlements for more than $1 billion were approved in 2006.[55] Indeed, it is worth noting that the eight settlements for more than $1

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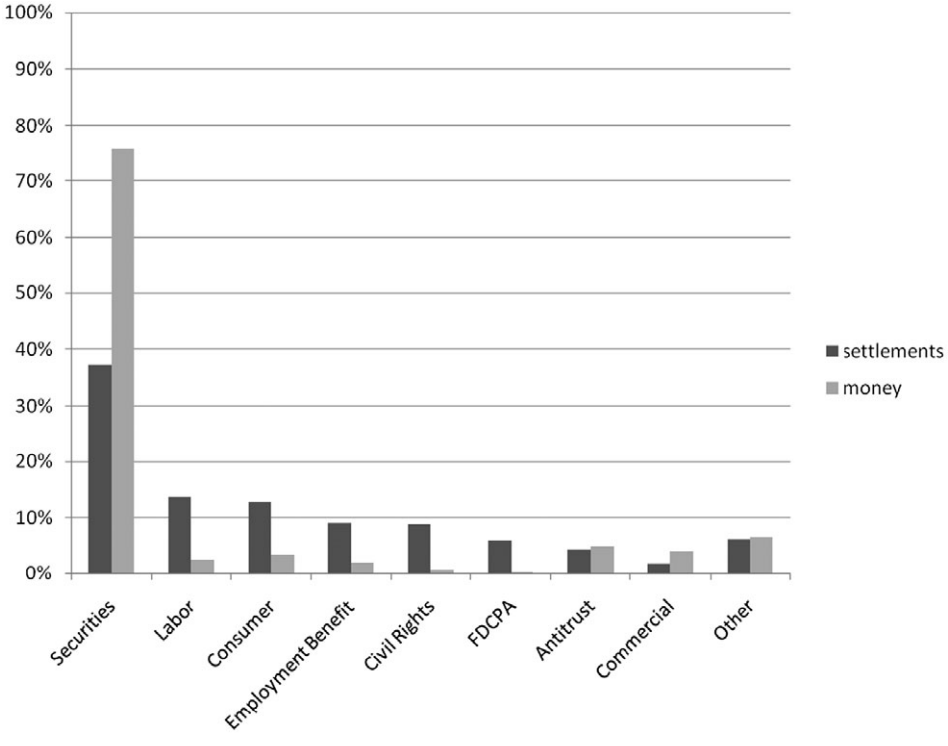
[52]For example, I excluded awards of a fixed amount of money to each class member who eventually filed a valid claim (as opposed to settlements that awarded a pro rata amount of a fixed settlement to each class member) if the total amount of money set aside to pay the claims was not set forth in the settlement documents.

[53]In some cases, the district court valued the relief in the settlement over a range. In these cases, I used the middle point in the range.

[54]See Hensler et al., supra note 7, at 427–30.

[55]See In re Enron Corp. Secs. Litig., MDL 1446 (S.D. Tex. May 24, 2006) ($6,600,000,000); In re Tyco Int'l Ltd. Multidistrict Litig., MDL 02-1335 (D.N.H. Dec. 19, 2007) ($3,200,000,000); In re AOL Time Warner, Inc. Secs. & "ERISA" Litig., MDL 1500 (S.D.N.Y. Apr. 6, 2006) ($2,500,000,000); In re: Diet Drugs Prods. Liab. Litig., MDL 1203 (E.D. Pa. May 24, 2006) ($1,275,000,000); In re Nortel Networks Corp. Secs. Litig. (Nortel I), No. 01-1855 (S.D.N.Y. Dec. 26, 2006) ($1,142,780,000); In re Royal Ahold N.V. Secs. & ERISA Litig., 03-1539 (D. Md. Jun. 16, 2006)

Figure 3: The percentage of 2006–2007 federal class action settlements and settlement money from each subject area.



SOURCES: Westlaw, PACER, district court clerks' offices.

billion accounted for almost $18 billion of the $33 billion that changed hands over the two-year period. That is, a mere 1 percent of the settlements comprised over 50 percent of the value involved in federal class action settlements in 2006 and 2007. To give some sense of the distribution of settlement size in the 2006–2007 data set, Table 5 sets forth the number of settlements with an ascertainable value beyond fee, expense, and class-representative incentive awards (605 out of the 688 settlements). Nearly two-thirds of all settlements fell below $10 million.

Given the disproportionate influence exerted by securities settlements on the total amount of money involved in class actions, it is unsurprising that the average securities settlement involved more money than the average settlement in most of the other subject areas. These numbers are provided in Table 6, which includes, again, only the settlements

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($1,100,000,000); Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006) ($1,075,000,000); In re Nortel Networks Corp. Secs. Litig. (Nortel II), No. 05-1659 (S.D.N.Y. Dec. 26, 2006) ($1,074,270,000).

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Table 5: The Distribution by Size of 2006–2007 Federal Class Action Settlements with Ascertainable Value

Settlement Size (in Millions)	*Number of Settlements*
[$0 to $1]	131 (21.7%)
($1 to $10]	261 (43.1%)
($10 to $50]	139 (23.0%)
($50 to $100]	33 (5.45%)
($100 to $500]	31 (5.12%)
($500 to $6,600]	10 (1.65%)
Total	605

NOTE: Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.
SOURCES: Westlaw, PACER, district court clerks' offices.

Table 6: The Average and Median Settlement Amounts in the 2006–2007 Federal Class Action Settlements with Ascertainable Value to the Class

Subject Matter	*Average*	*Median*
Securities ($n = 257$)	$96.4	$8.0
Labor and employment ($n = 88$)	$9.2	$1.8
Consumer ($n = 65$)	$18.8	$2.9
Employee benefits ($n = 52$)	$13.9	$5.3
Civil rights ($n = 34$)	$9.7	$2.5
Debt collection ($n = 40$)	$0.37	$0.088
Antitrust ($n = 29$)	$60.0	$22.0
Commercial ($n = 12$)	$111.7	$7.1
Other ($n = 28$)	$76.6	$6.2
All ($N = 605$)	$54.7	$5.1

NOTE: Dollar amounts are in millions. Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.
SOURCES: Westlaw, PACER, district court clerks' offices.

with an ascertainable value beyond fee, expense, and class-representative incentive awards. The average settlement over the entire two-year period for all types of cases was almost $55 million, but the median was only $5.1 million. (With the $6.6 billion Enron settlement excluded, the average settlement for all ascertainable cases dropped to $43.8 million and, for securities cases, dropped to $71.0 million.) The average settlements varied widely by litigation area, with securities and commercial settlements at the high end of around $100

million, but the median settlements for nearly every area were bunched around a few million dollars. It should be noted that the high average for commercial cases is largely due to one settlement above $1 billion;[56] when that settlement is removed, the average for commercial cases was only $24.2 million.

Table 6 permits comparison with the two prior empirical studies of class action settlements that sought to include nonsecurities as well as securities cases in their purview. The Eisenberg-Miller study through 2002, which included both common-fund and fee-shifting cases, found that the mean class action settlement was $112 million and the median was $12.9 million, both in 2006 dollars,[57] more than double the average and median I found for all settlements in 2006 and 2007. The Eisenberg-Miller update through 2008 included only common-fund cases and found mean and median settlements in federal court of $115 million and $11.7 million (both again in 2006 dollars),[58] respectively; this is still more than double the average and median I found. This suggests that the methodology used by the Eisenberg-Miller studies—looking at district court opinions that were published in Westlaw or Lexis—oversampled larger class actions (because opinions approving larger class actions are, presumably, more likely to be published than opinions approving smaller ones). It is also possible that the exclusion of fee-shifting cases from their data through 2008 contributed to this skew, although, given that their data through 2002 included fee-shifting cases and found an almost identical mean and median as their data through 2008, the primary explanation for the much larger mean and median in their study through 2008 is probably their reliance on published opinions. Over the same years examined by Professors Eisenberg and Miller, the Class Action Reports study found a smaller average settlement than I did ($39.5 million in 2006 dollars), but a larger median ($8.48 million in 2006 dollars). It is possible that the Class Action Reports methodology also oversampled larger class actions, explaining its larger median, but that there are more "mega" class actions today than there were before 2003, explaining its smaller mean.[59]

It is interesting to ask how significant the $16 billion that was involved annually in these 350 or so federal class action settlements is in the grand scheme of U.S. litigation. Unfortunately, we do not know how much money is transferred every year in U.S. litigation. The only studies of which I am aware that attempt even a partial answer to this question are the estimates of how much money is transferred in the U.S. "tort" system every year by a financial services consulting firm, Tillinghast-Towers Perrin.[60] These studies are not directly

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[56]See Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006) (approving $1,075,000,000 settlement).

[57]See Eisenberg & Miller, supra note 15, at 47.

[58]See Eisenberg & Miller II, supra note 16, at 262.

[59]There were eight class action settlements during 2006 and 2007 of more than $1 billion. See note 55 supra.

[60]Some commentators have been critical of Tillinghast's reports, typically on the ground that the reports overestimate the cost of the tort system. See M. Martin Boyer, Three Insights from the Canadian D&O Insurance Market: Inertia, Information and Insiders, 14 Conn. Ins. L.J. 75, 84 (2007); John Fabian Witt, Form and Substance in the Law of

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comparable to the class action settlement numbers because, again, the number of tort class action settlements in 2006 and 2007 was very small. Nonetheless, as the tort system no doubt constitutes a large percentage of the money transferred in all litigation, these studies provide something of a point of reference to assess the significance of class action settlements. In 2006 and 2007, Tillinghast-Towers Perrin estimated that the U.S. tort system transferred $160 billion and $164 billion, respectively, to claimants and their lawyers.[61] The total amount of money involved in the 2006 and 2007 federal class action settlements reported in Table 4 was, therefore, roughly 10 percent of the Tillinghast-Towers Perrin estimate. This suggests that in merely 350 cases every year, federal class action settlements involve the same amount of wealth as 10 percent of the entire U.S. tort system. It would seem that this is a significant amount of money for so few cases.

IV. Attorney Fees in Federal Class Action Settlements, 2006 and 2007

A. Total Amount of Fees and Expenses

As I demonstrated in Section III, federal class action settlements involved a great deal of money in 2006 and 2007, some $16 billion a year. A perennial concern with class action litigation is whether class action lawyers are reaping an outsized portion of this money.[62] The 2006–2007 federal class action data suggest that these concerns may be exaggerated. Although class counsel were awarded some $5 billion in fees and expenses over this period, as shown in Table 7, only 13 percent of the settlement amount in 2006 and 20 percent of the amount in 2007 went to fee and expense awards.[63] The 2006 percentage is lower than the 2007 percentage in large part because the class action lawyers in the Enron securities settlement received less than 10 percent of the $6.6 billion corpus. In any event, the percentages in both 2006 and 2007 are far lower than the portions of settlements that contingency-fee lawyers receive in individual litigation, which are usually at least 33 percent.[64] Lawyers received less than 33 percent of settlements in fees and expenses in virtually every subject area in both years.

Counterinsurgency Damages, 41 Loy. L.A.L. Rev. 1455, 1475 n.135 (2008). If these criticisms are valid, then class action settlements would appear even more significant as compared to the tort system.

[61]See Tillinghast-Towers Perrin, U.S. Tort Costs: 2008 Update 5 (2008). The report calculates $252 billion in total tort "costs" in 2007 and $246.9 billion in 2006, id., but only 65 percent of those costs represent payments made to claimants and their lawyers (the remainder represents insurance administration costs and legal costs to defendants). See Tillinghast-Towers Perrin, U.S. Tort Costs: 2003 Update 17 (2003).

[62]See, e.g., Brian T. Fitzpatrick, Do Class Action Lawyers Make Too Little? 158 U. Pa. L. Rev. 2043, 2043–44 (2010).

[63]In some of the partial settlements, see note 29 supra, the district court awarded expenses for all the settlements at once and it was unclear what portion of the expenses was attributable to which settlement. In these instances, I assigned each settlement a pro rata portion of expenses. To the extent possible, all the fee and expense numbers in this article exclude any interest known to be awarded by the courts.

[64]See, e.g., Herbert M. Kritzer, The Wages of Risk: The Returns of Contingency Fee Legal Practice, 47 DePaul L. Rev. 267, 284–86 (1998) (reporting results of a survey of Wisconsin lawyers).

Table 7: The Total Amount of Fees and Expenses Awarded to Class Action Lawyers in Federal Class Action Settlements in 2006 and 2007

	Total Fees and Expenses Awarded in Settlements (and as Percentage of Total Settlement Amounts) in Each Subject Area	
Subject Matter	*2006 (n = 292)*	*2007 (n = 363)*
Securities	$1,899 (11%)	$1,467 (20%)
Labor and employment	$75.1 (28%)	$144.5 (26%)
Consumer	$126.4 (24%)	$65.3 (9%)
Employee benefits	$57.1 (13%)	$71.9 (26%)
Civil rights	$31.0 (12%)	$32.2 (39%)
Debt collection	$2.5 (28%)	$1.1 (19%)
Antitrust	$274.6 (26%)	$157.3 (24%)
Commercial	$347.3 (29%)	$18.2 (15%)
Other	$119.3 (8%)	$103.3 (17%)
Total	$2,932 (13%)	$2,063 (20%)

NOTE: Dollar amounts are in millions. Excludes settlements in which fees were not (or at least not yet) sought (22 settlements), settlements in which fees have not yet been awarded (two settlements), and settlements in which fees could not be ascertained due to indefinite award amounts, missing documents, or nonpublic side agreements (nine settlements).

SOURCES: Westlaw, PACER, district court clerks' offices.

It should be noted that, in some respects, the percentages in Table 7 overstate the portion of settlements that were awarded to class action attorneys because, again, many of these settlements involved indefinite cash relief or noncash relief that could not be valued.[65] If the value of all this relief could have been included, then the percentages in Table 7 would have been even lower. On the other hand, as noted above, not all the money defendants agree to pay in class action settlements is ultimately collected by the class.[66] To the extent leftover money is returned to the defendant, the percentages in Table 7 understate the portion class action lawyers received relative to their clients.

B. Method of Awarding Fees

District court judges have a great deal of discretion in how they set fee awards in class action cases. Under Rule 23, federal judges are told only that the fees they award to class counsel

[65]Indeed, the large year-to-year variation in the percentages in labor, consumer, and employee benefits cases arose because district courts made particularly large valuations of the equitable relief in a few settlements and used the lodestar method to calculate the fees in these settlements (and thereby did not consider their large valuations in calculating the fees).

[66]See Hensler et al., supra note 7, at 427–30.

must be "reasonable."[67] Courts often exercise this discretion by choosing between two approaches: the lodestar approach or the percentage-of-the-settlement approach.[68] The lodestar approach works much the way it does in individual litigation: the court calculates the fee based on the number of hours class counsel actually worked on the case multiplied by a reasonable hourly rate and a discretionary multiplier.[69] The percentage-of-the-settlement approach bases the fee on the size of the settlement rather than on the hours class counsel actually worked: the district court picks a percentage of the settlement it thinks is reasonable based on a number of factors, one of which is often the fee lodestar (sometimes referred to as a "lodestar cross-check").[70] My 2006–2007 data set shows that the percentage-of-the-settlement approach has become much more common than the lodestar approach. In 69 percent of the settlements reported in Table 7, district court judges employed the percentage-of-the-settlement method with or without the lodestar cross-check. They employed the lodestar method in only 12 percent of settlements. In the other 20 percent of settlements, the court did not state the method it used or it used another method altogether.[71] The pure lodestar method was used most often in consumer (29 percent) and debt collection (45 percent) cases. These numbers are fairly consistent with the Eisenberg-Miller data from 2003 to 2008. They found that the lodestar method was used in only 9.6 percent of settlements.[72] Their number is no doubt lower than the 12 percent number found in my 2006–2007 data set because they excluded fee-shifting cases from their study.

C. Variation in Fees Awarded

Not only do district courts often have discretion to choose between the lodestar method and the percentage-of-the-settlement method, but each of these methods leaves district courts with a great deal of discretion in how the method is ultimately applied. The courts

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[67]Fed. R. Civ. P. 23(h).

[68]The discretion to pick between these methods is most pronounced in settlements where the underlying claim was not found in a statute that would shift attorney fees to the defendant. See, e.g., In re Thirteen Appeals Arising out of San Juan DuPont Plaza Hotel Fire Litig., 56 F.3d 295, 307 (1st Cir. 1995) (permitting either percentage or lodestar method in common-fund cases); Goldberger v. Integrated Res. Inc., 209 F.3d 43, 50 (2d Cir. 2000) (same); Rawlings v. Prudential-Bache Props., Inc., 9 F.3d 513, 516 (6th Cir. 1993) (same). By contrast, courts typically used the lodestar approach in settlements arising from fee-shifting cases.

[69]See Eisenberg & Miller, supra note 15, at 31.

[70]Id. at 31–32.

[71]These numbers are based on the fee method described in the district court's order awarding fees, unless the order was silent, in which case the method, if any, described in class counsel's motion for fees (if it could be obtained) was used. If the court explicitly justified the fee award by reference to its percentage of the settlement, I counted it as the percentage method. If the court explicitly justified the award by reference to a lodestar calculation, I counted it as the lodestar method. If the court explicitly justified the award by reference to both, I counted it as the percentage method with a lodestar cross-check. If the court calculated neither a percentage nor the fee lodestar in its order, then I counted it as an "other" method.

[72]See Eisenberg & Miller II, supra note 16, at 267.

that use the percentage-of-the-settlement method usually rely on a multifactor test[73] and, like most multifactor tests, it can plausibly yield many results. It is true that in many of these cases, judges examine the fee percentages that other courts have awarded to guide their discretion.[74] In addition, the Ninth Circuit has adopted a presumption that 25 percent is the proper fee award percentage in class action cases.[75] Moreover, in securities cases, some courts presume that the proper fee award percentage is the one class counsel agreed to when it was hired by the large shareholder that is now usually selected as the lead plaintiff in such cases.[76] Nonetheless, presumptions, of course, can be overcome and, as one court has put it, "[t]here is no hard and fast rule mandating a certain percentage . . . which may reasonably be awarded as a fee because the amount of any fee must be determined upon the facts of each case."[77] The court added: "[i]ndividualization in the exercise of a discretionary power [for fee awards] will alone retain equity as a living system and save it from sterility."[78] It is therefore not surprising that district courts awarded fees over a broad range when they used the percentage-of-the-settlement method. Figure 4 is a graph of the distribution of fee awards as a percentage of the settlement in the 444 cases where district courts used the percentage method with or without a lodestar cross-check and the fee percentages were ascertainable. These fee awards are exclusive of awards for expenses whenever the awards could be separated by examining either the district court's order or counsel's motion for fees and expenses (which was 96 percent of the time). The awards ranged from 3 percent of the settlement to 47 percent of the settlement. The average award was 25.4 percent and the median was 25 percent. Most fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent. The Eisenberg-Miller study through 2008 found a slightly lower mean (24 percent) but the same median (25 percent) among its federal court settlements.[79]

It should be noted that in 218 of these 444 settlements (49 percent), district courts said they considered the lodestar calculation as a factor in assessing the reasonableness of the fee percentages awarded. In 204 of these settlements, the lodestar multiplier resulting

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[73]The Eleventh Circuit, for example, has identified a nonexclusive list of 15 factors that district courts might consider. See Camden I Condo. Ass'n, Inc. v. Dunkle, 946 F.2d 768, 772 n.3, 775 (11th Cir. 1991). See also In re Tyco Int'l, Ltd. Multidistrict Litig., 535 F. Supp. 2d 249, 265 (D.N.H. 2007) (five factors); Goldberger v. Integrated Res. Inc., 209 F.3d 43, 50 (2d Cir. 2000) (six factors); Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000) (seven factors); In re Royal Ahold N.V. Sec. & ERISA Litig., 461 F. Supp. 2d 383, 385 (D. Md. 2006) (13 factors); Brown v. Phillips Petroleum Co., 838 F.2d 451, 454 (10th Cir. 1988) (12 factors); In re Baan Co. Sec. Litig., 288 F. Supp. 2d 14, 17 (D.D.C. 2003) (seven factors).

[74]See Eisenberg & Miller, supra note 15, at 32.

[75]See Staton v. Boeing Co., 327 F.3d 938, 968 (9th Cir. 2003).

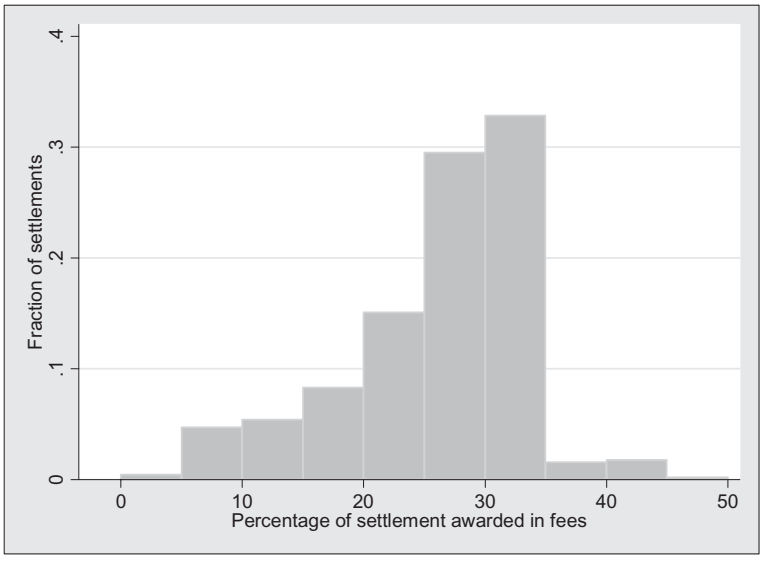
[76]See, e.g., In re Cendant Corp. Litig., 264 F.3d 201, 282 (3d Cir. 2001).

[77]*Camden I Condo. Ass'n*, 946 F.2d at 774.

[78]*Camden I Condo. Ass'n*, 946 F.2d at 774 (alterations in original and internal quotation marks omitted).

[79]See Eisenberg & Miller II, supra note 16, at 259.

Figure 4: The distribution of 2006–2007 federal class action fee awards using the percentage-of-the-settlement method with or without lodestar cross-check.



SOURCES: Westlaw, PACER, district court clerks' offices.

from the fee award could be ascertained. The lodestar multiplier in these cases ranged from 0.07 to 10.3, with a mean of 1.65 and a median of 1.34. Although there is always the possibility that class counsel are optimistic with their timesheets when they submit them for lodestar consideration, these lodestar numbers—only one multiplier above 6.0, with the bulk of the range not much above 1.0—strike me as fairly parsimonious for the risk that goes into any piece of litigation and cast doubt on the notion that the percentage-of-the-settlement method results in windfalls to class counsel.[80]

Table 8 shows the mean and median fee percentages awarded in each litigation subject area. The fee percentages did not appear to vary greatly across litigation subject areas, with most mean and median awards between 25 percent and 30 percent. As I report later in this section, however, after controlling for other variables, there were statistically significant differences in the fee percentages awarded in some subject areas compared to others. The mean and median percentages for securities cases were 24.7 percent and 25.0 percent, respectively; for all nonsecurities cases, the mean and median were 26.1 percent and 26.0 percent, respectively. The Eisenberg-Miller study through 2008 found mean awards ranging from 21–27 percent and medians from 19–25 percent,[81] a bit lower than the ranges in my

[80]It should be emphasized, of course, that these 204 settlements may not be representative of the settlements where the percentage-of-the-settlement method was used without the lodestar cross-check.

[81]See Eisenberg & Miller II, supra note 16, at 262.

Table 8: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

	Percentage of Settlement Awarded as Fees	
Subject Matter	*Mean*	*Median*
Securities ($n = 233$)	24.7	25.0
Labor and employment ($n = 61$)	28.0	29.0
Consumer ($n = 39$)	23.5	24.6
Employee benefits ($n = 37$)	26.0	28.0
Civil rights ($n = 20$)	29.0	30.3
Debt collection ($n = 5$)	24.2	25.0
Antitrust ($n = 23$)	25.4	25.0
Commercial ($n = 7$)	23.3	25.0
Other ($n = 19$)	24.9	26.0
All ($N = 444$)	25.7	25.0

SOURCES: Westlaw, PACER, district court clerks' offices.

2006–2007 data set, which again, may be because they oversampled larger settlements (as I show below, district courts awarded smaller fee percentages in larger cases).

In light of the fact that, as I noted above, the distribution of class action settlements among the geographic circuits does not track their civil litigation dockets generally, it is interesting to ask whether one reason for the pattern in class action cases is that circuits oversubscribed with class actions award higher fee percentages. Although this question will be taken up with more sophistication in the regression analysis below, it is worth describing here the mean and median fee percentages in each of the circuits. Those data are presented in Table 9. Contrary to the hypothesis set forth in Section III, two of the circuits most oversubscribed with class actions, the Second and the Ninth, were the only circuits in which the mean fee awards were *under* 25 percent. As I explain below, these differences are statistically significant and remain so after controlling for other variables.

The lodestar method likewise permits district courts to exercise a great deal of leeway through the application of the discretionary multiplier. Figure 5 shows the distribution of lodestar multipliers in the 71 settlements in which district courts used the lodestar method and the multiplier could be ascertained. The average multiplier was 0.98 and the median was 0.92, which suggest that courts were not terribly prone to exercise their discretion to deviate from the amount of money encompassed in the lodestar calculation. These 71

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Table 9: Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

	Percentage of Settlement Awarded as Fees	
Circuit	*Mean*	*Median*
First ($n = 27$)	27.0	25.0
Second ($n = 72$)	23.8	24.5
Third ($n = 50$)	25.4	29.3
Fourth ($n = 19$)	25.2	28.0
Fifth ($n = 27$)	26.4	29.0
Sixth ($n = 25$)	26.1	28.0
Seventh ($n = 39$)	27.4	29.0
Eighth ($n = 15$)	26.1	30.0
Ninth ($n = 111$)	23.9	25.0
Tenth ($n = 18$)	25.3	25.5
Eleventh ($n = 35$)	28.1	30.0
DC ($n = 6$)	26.9	26.0

SOURCES: Westlaw, PACER, district court clerks' offices.

settlements were heavily concentrated within the consumer (median multiplier 1.13) and debt collection (0.66) subject areas. If cases in which district courts used the percentage-of-the-settlement method with a lodestar cross-check are combined with the lodestar cases, the average and median multipliers (in the 263 cases where the multipliers were ascertainable) were 1.45 and 1.19, respectively. Again—putting to one side the possibility that class counsel are optimistic with their timesheets—these multipliers appear fairly modest in light of the risk involved in any piece of litigation.

D. Factors Influencing Percentage Awards

Whether district courts are exercising their discretion over fee awards wisely is an important public policy question given the amount of money at stake in class action settlements. As shown above, district court judges awarded class action lawyers nearly $5 billion in fees and expenses in 2006–2007. Based on the comparison to the tort system set forth in Section III, it is not difficult to surmise that in the 350 or so settlements every year, district court judges

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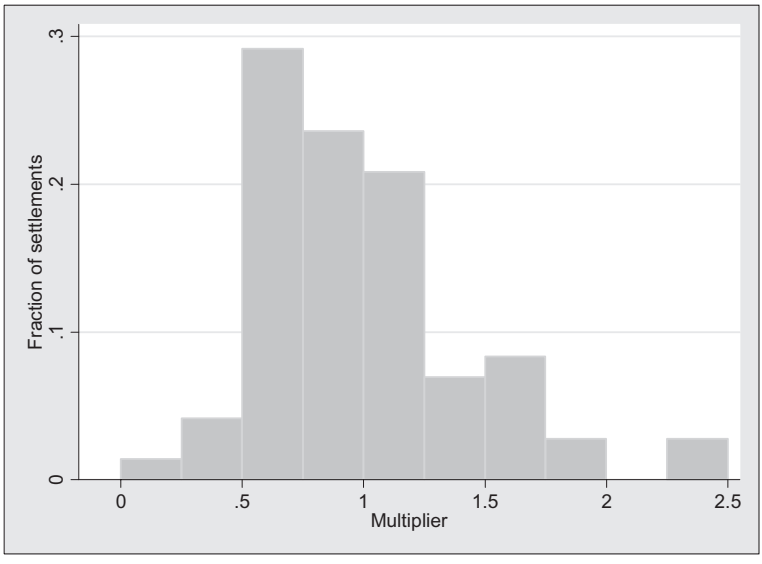
Figure 5: The distribution of lodestar multipliers in 2006–2007 federal class action fee awards using the lodestar method.



SOURCES: Westlaw, PACER, district court clerks' offices.

are awarding a significant portion of all the annual compensation received by contingency-fee lawyers in the United States. Moreover, contingency fees are arguably the engine that drives much of the noncriminal regulation in the United States; unlike many other nations, we regulate largely through the ex post, decentralized device of litigation.[82] To the extent district courts could have exercised their discretion to award billions more or billions less to class action lawyers, district courts have been delegated a great deal of leeway over a big chunk of our regulatory horsepower. It is therefore worth examining how district courts exercise their discretion over fees. This examination is particularly important in cases where district courts use the percentage-of-the-settlement method to award fees: not only do such cases comprise the vast majority of settlements, but they comprise the vast majority of the money awarded as fees. As such, the analysis that follows will be confined to the 444 settlements where the district courts used the percentage-of-the-settlement method.

As I noted, prior empirical studies have shown that fee percentages are strongly and inversely related to the size of the settlement both in securities fraud and other cases. As shown in Figure 6, the 2006–2007 data are consistent with prior studies. Regression analysis, set forth in more detail below, confirms that after controlling for other variables, fee percentage is strongly and inversely associated with settlement size among all cases, among securities cases, and among all nonsecurities cases.

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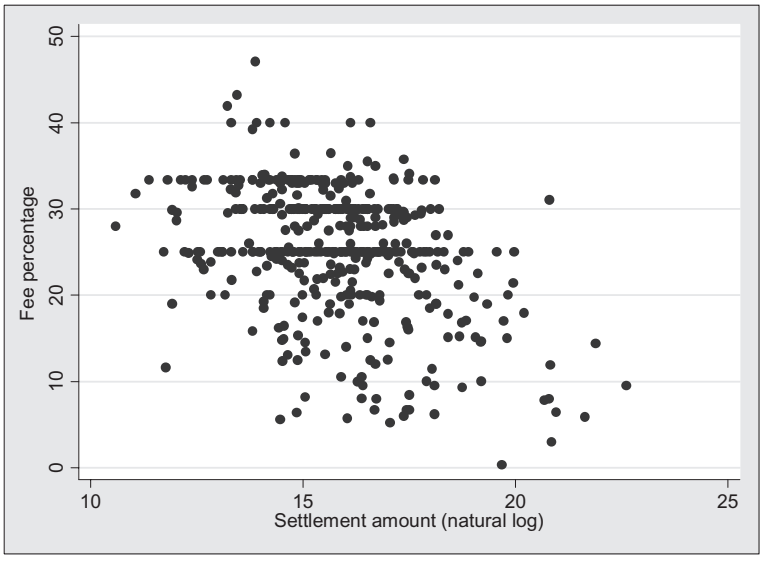
[82]See, e.g., Samuel Issacharoff, Regulating after the Fact, 56 DePaul L. Rev. 375, 377 (2007).

Figure 6: Fee awards as a function of settlement size in 2006–2007 class action cases using the percentage-of-the-settlement method with or without lodestar cross-check.



SOURCES: Westlaw, PACER, district court clerks' offices.

As noted above, courts often look to fee percentages in other cases as one factor they consider in deciding what percentage to award in a settlement at hand. In light of this practice, and in light of the fact that the size of the settlement has such a strong relationship to fee percentages, scholars have tried to help guide the practice by reporting the distribution of fee percentages across different settlement sizes.[83] In Table 10, I follow the Eisenberg-Miller studies and attempt to contribute to this guidance by setting forth the mean and median fee percentages, as well as the standard deviation, for each decile of the 2006–2007 settlements in which courts used the percentage-of-the-settlement method to award fees. The mean percentages ranged from over 28 percent in the first decile to less than 19 percent in the last decile.

It should be noted that the last decile in Table 10 covers an especially wide range of settlements, those from $72.5 million to the Enron settlement of $6.6 billion. To give more meaningful data to courts that must award fees in the largest settlements, Table 11 shows the last decile broken into additional cut points. When both Tables 10 and 11 are examined together, it appears that fee percentages tended to drift lower at a fairly slow pace until a settlement size of $100 million was reached, at which point the fee percentages plunged well below 20 percent, and by the time $500 million was reached, they plunged well below 15 percent, with most awards at that level under even 10 percent.

[83]See Eisenberg & Miller II, supra note 16, at 265.

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Table 10: Mean, Median, and Standard Deviation of Fee Awards by Settlement Size in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

Settlement Size (in Millions)	*Mean*	*Median*	SD
[$0 to $0.75] ($n = 45$)	28.8%	29.6%	6.1%
($0.75 to $1.75] ($n = 44$)	28.7%	30.0%	6.2%
($1.75 to $2.85] ($n = 45$)	26.5%	29.3%	7.9%
($2.85 to $4.45] ($n = 45$)	26.0%	27.5%	6.3%
($4.45 to $7.0] ($n = 44$)	27.4%	29.7%	5.1%
($7.0 to $10.0] ($n = 43$)	26.4%	28.0%	6.6%
($10.0 to $15.2] ($n = 45$)	24.8%	25.0%	6.4%
($15.2 to $30.0] ($n = 46$)	24.4%	25.0%	7.5%
($30.0 to $72.5] ($n = 42$)	22.3%	24.9%	8.4%
($72.5 to $6,600] ($n = 45$)	18.4%	19.0%	7.9%

SOURCES: Westlaw, PACER, district court clerks' offices.

Table 11: Mean, Median, and Standard Deviation of Fee Awards of the Largest 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

Settlement Size (in Millions)	*Mean*	*Median*	SD
($72.5 to $100] ($n = 12$)	23.7%	24.3%	5.3%
($100 to $250] ($n = 14$)	17.9%	16.9%	5.2%
($250 to $500] ($n = 8$)	17.8%	19.5%	7.9%
($500 to $1,000] ($n = 2$)	12.9%	12.9%	7.2%
($1,000 to $6,600] ($n = 9$)	13.7%	9.5%	11%

SOURCES: Westlaw, PACER, district court clerks' offices.

Prior empirical studies have not examined whether fee awards are associated with the political affiliation of the district court judges making the awards. This is surprising because realist theories of judicial behavior would predict that political affiliation would influence fee decisions.[84] It is true that as a general matter, political affiliation may influence district court judges to a lesser degree than it does appellate judges (who have been the focus of most of the prior empirical studies of realist theories): district court judges decide more routine cases and are subject to greater oversight on appeal than appellate judges. On the other hand, class action settlements are a bit different in these regards than many other decisions made by district court judges. To begin with, class action settlements are almost never appealed, and when they are, the appeals are usually settled before the appellate court hears the case.[85] Thus, district courts have much less reason to worry about the constraint of appellate review in fashioning fee awards. Moreover, one would think the potential for political affiliation to influence judicial decision making is greatest when legal sources lead to indeterminate outcomes and when judicial decisions touch on matters that are salient in national politics. (The more salient a matter is, the more likely presidents will select judges with views on the matter and the more likely those views will diverge between Republicans and Democrats.) Fee award decisions would seem to satisfy both these criteria. The law of fee awards, as explained above, is highly discretionary, and fee award decisions are wrapped up in highly salient political issues such as tort reform and the relative power of plaintiffs' lawyers and corporations. I would expect to find that judges appointed by Democratic presidents awarded higher fees in the 2006–2007 settlements than did judges appointed by Republican presidents.

The data, however, do not appear to bear this out. Of the 444 fee awards using the percentage-of-the-settlement approach, 52 percent were approved by Republican appointees, 45 percent were approved by Democratic appointees, and 4 percent were approved by non-Article III judges (usually magistrate judges). The mean fee percentage approved by Republican appointees (25.6 percent) was slightly *greater* than the mean approved by Democratic appointees (24.9 percent). The medians (25 percent) were the same.

To examine whether the realist hypothesis fared better after controlling for other variables, I performed regression analysis of the fee percentage data for the 427 settlements approved by Article III judges. I used ordinary least squares regression with the dependent variable the percentage of the settlement that was awarded in fees.[86] The independent

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[84]See generally C.K. Rowland & Robert A. Carp, Politics and Judgment in Federal District Courts (1996). See also Max M. Schanzenbach & Emerson H. Tiller, Reviewing the Sentencing Guidelines: Judicial Politics, Empirical Evidence, and Reform, 75 U. Chi. L. Rev. 715, 724–25 (2008).

[85]See Brian T. Fitzpatrick, The End of Objector Blackmail? 62 Vand. L. Rev. 1623, 1640, 1634–38 (2009) (finding that less than 10 percent of class action settlements approved by federal courts in 2006 were appealed by class members).

[86]Professors Eisenberg and Miller used a square root transformation of the fee percentages in some of their regressions. I ran all the regressions using this transformation as well and it did not appreciably change the results. I also ran the regressions using a natural log transformation of fee percentage and with the dependent variable natural log of the fee amount (as opposed to the fee percentage). None of these models changed the results

variables were the natural log of the amount of the settlement, the natural log of the age of the case (in days), indicator variables for whether the class was certified as a settlement class, for litigation subject areas, and for circuits, as well as indicator variables for whether the judge was appointed by a Republican or Democratic president and for the judge's race and gender.[87]

The results for five regressions are in Table 12. In the first regression (Column 1), only the settlement amount, case age, and judge's political affiliation, gender, and race were included as independent variables. In the second regression (Column 2), all the independent variables were included. In the third regression (Column 3), only securities cases were analyzed, and in the fourth regression (Column 4), only nonsecurities cases were analyzed.

In none of these regressions was the political affiliation of the district court judge associated with fee percentage in a statistically significant manner.[88] One possible explanation for the lack of evidence for the realist hypothesis is that district court judges elevate other preferences above their political and ideological ones. For example, district courts of both political stripes may succumb to docket-clearing pressures and largely rubber stamp whatever fee is requested by class counsel; after all, these requests are rarely challenged by defendants. Moreover, if judges award class counsel whatever they request, class counsel will not appeal and, given that, as noted above, class members rarely appeal settlements (and when they do, often settle them before the appeal is heard),[89] judges can thereby virtually guarantee there will be no appellate review of their settlement decisions. Indeed, scholars have found that in the vast majority of cases, the fees ultimately awarded by federal judges are little different than those sought by class counsel.[90]

Another explanation for the lack of evidence for the realist hypothesis is that my data set includes both unpublished as well as published decisions. It is thought that realist theories of judicial behavior lose force in unpublished judicial decisions. This is the case because the kinds of questions for which realist theories would predict that judges have the most room to let their ideologies run are questions for which the law is ambiguous; it is

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appreciably. The regressions were also run with and without the 2006 Enron settlement because it was such an outlier ($6.6 billion); the case did not change the regression results appreciably. For every regression, the data and residuals were inspected to confirm the standard assumptions of linearity, homoscedasticity, and the normal distribution of errors.

[87]Prior studies of judicial behavior have found that the race and sex of the judge can be associated with his or her decisions. See, e.g., Adam B. Cox & Thomas J. Miles, Judging the Voting Rights Act, 108 Colum. L. Rev. 1 (2008); Donald R. Songer et al., A Reappraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals, 56 J. Pol. 425 (1994).

[88]Although these coefficients are not reported in Table 8, the gender of the district court judge was never statistically significant. The race of the judge was only occasionally significant.

[89]See Fitzpatrick, supra note 85, at 1640.

[90]See Eisenberg & Miller II, supra note 16, at 270 (finding that state and federal judges awarded the fees requested by class counsel in 72.5 percent of settlements); Eisenberg, Miller & Perino, supra note 9, at 22 ("judges take a light touch when it comes to reviewing fee requests").

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Table 12: Regression of Fee Percentages in 2006–2007 Settlements Using Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

	Regression Coefficients (and Robust t *Statistics)*				
Independent Variable	*1*	*2*	*3*	*4*	*5*
Settlement amount (natural log)	−1.77	−1.76	−1.76	−1.41	−1.78
	(−5.43)**	(−8.52)**	(−7.16)**	(−4.00)**	(−8.67)**
Age of case (natural log days)	1.66	1.99	1.13	1.72	2.00
	(2.31)**	(2.71)**	(1.21)	(1.47)	(2.69)**
Judge's political affiliation (1 = Democrat)	−0.630	−0.345	0.657	−1.43	−0.232
	(−0.83)	(−0.49)	(0.76)	(−1.20)	(−0.34)
Settlement class		0.150	0.873	−1.62	0.124
		(0.19)	(0.84)	(−1.00)	(0.15)
1st Circuit		3.30	4.41	0.031	0.579
		(2.74)**	(3.32)**	(0.01)	(0.51)
2d Circuit		0.513	−0.813	2.93	−2.23
		(0.44)	(−0.61)	(1.14)	(−1.98)**
3d Circuit		2.25	4.00	−1.11	—
		(1.99)**	(3.85)**	(−0.50)	
4th Circuit		2.34	0.544	3.81	—
		(1.22)	(0.19)	(1.35)	
5th Circuit		2.98	1.09	6.11	0.230
		(1.90)*	(0.65)	(1.97)**	(0.15)
6th Circuit		2.91	0.838	4.41	—
		(2.28)**	(0.57)	(2.15)**	
7th Circuit		2.55	3.22	2.90	−0.227
		(2.23)**	(2.36)**	(1.46)	(−0.20)
8th Circuit		2.12	−0.759	3.73	−0.586
		(0.97)	(−0.24)	(1.19)	(−0.28)
9th Circuit		—	—	—	−2.73
					(−3.44)**
10th Circuit		1.45	−0.254	3.16	—
		(0.94)	(−0.13)	(1.29)	
11th Circuit		4.05	3.85	4.14	—
		(3.44)**	(3.07)**	(1.88)*	
DC Circuit		2.76	2.60	2.41	—
		(1.10)	(0.80)	(0.64)	
Securities case		—			—
Labor and employment case		2.93		—	2.85
		(3.00)**			(2.94)**
Consumer case		−1.65		−4.39	−1.62
		(−0.88)		(−2.20)**	(−0.88)
Employee benefits case		−0.306		−4.23	−0.325
		(−0.23)		(−2.55)**	(−0.26)
Civil rights case		1.85		−2.05	1.76
		(0.99)		(−0.97)	(0.95)
Debt collection case		−4.93		−7.93	−5.04
		(−1.71)*		(−2.49)**	(−1.75)*
Antitrust case		3.06		0.937	2.78
		(2.11)**		(0.47)	(1.98)**

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Table 12 *Continued*

	Regression Coefficients (and Robust t *Statistics)*				
Independent Variable	*1*	*2*	*3*	*4*	*5*
Commercial case		−0.028		−2.65	0.178
		(−0.01)		(−0.73)	(0.05)
Other case		−0.340		−3.73	−0.221
		(−0.17)		(−1.65)	(−0.11)
Constant	42.1	37.2	43.0	38.2	40.1
	(7.29)**	(6.08)**	(6.72)**	(4.14)**	(7.62)**
N	427	427	232	195	427
R^2	.20	.26	.37	.26	.26
Root MSE	6.59	6.50	5.63	7.24	6.48

NOTE: **significant at the 5 percent level; *significant at the 10 percent level. Standard errors in Column 1 were clustered by circuit. Indicator variables for race and gender were included in each regression but not reported.

SOURCES: Westlaw, PACER, district court clerks' offices, Federal Judicial Center.

thought that these kinds of questions are more often answered in published opinions.[91] Indeed, most of the studies finding an association between ideological beliefs and case outcomes were based on data sets that included only published opinions.[92] On the other hand, there is a small but growing number of studies that examine unpublished opinions as well, and some of these studies have shown that ideological effects persisted.[93] Nonetheless, in light of the discretion that judges exercise with respect to fee award decisions, it hard to characterize *any* decision in this area as "unambiguous." Thus, even when unpublished, I would have expected the fee award decisions to exhibit an association with ideological beliefs. Thus, I am more persuaded by the explanation suggesting that judges are more concerned with clearing their dockets or insulating their decisions from appeal in these cases than with furthering their ideological beliefs.

In all the regressions, the size of the settlement was strongly and inversely associated with fee percentages. Whether the case was certified as a settlement class was not associated

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[91]See, e.g., Ahmed E. Taha, Data and Selection Bias: A Case Study, 75 UMKC L. Rev. 171, 179 (2006).

[92]Id. at 178–79.

[93]See, e.g., David S. Law, Strategic Judicial Lawmaking: Ideology, Publication, and Asylum Law in the Ninth Circuit, 73 U. Cin. L. Rev. 817, 843 (2005); Deborah Jones Merritt & James J. Brudney, Stalking Secret Law: What Predicts Publication in the United States Courts of Appeals, 54 Vand. L. Rev. 71, 109 (2001); Donald R. Songer, Criteria for Publication of Opinions in the U.S. Courts of Appeals: Formal Rules Versus Empirical Reality, 73 Judicature 307, 312 (1990). At the trial court level, however, the studies of civil cases have found no ideological effects. See Laura Beth Nielsen, Robert L. Nelson & Ryon Lancaster, Individual Justice or Collective Legal Mobilization? Employment Discrimination Litigation in the Post Civil Rights United States, 7 J. Empirical Legal Stud. 175, 192–93 (2010); Denise M. Keele et al., An Analysis of Ideological Effects in Published Versus Unpublished Judicial Opinions, 6 J. Empirical Legal Stud. 213, 230 (2009); Orley Ashenfelter, Theodore Eisenberg & Stewart J. Schwab, Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes, 24 J. Legal Stud. 257, 276–77 (1995). With respect to criminal cases, there is at least one study at the trial court level that has found ideological effects. See Schanzenbach & Tiller, supra note 81, at 734.

with fee percentages in any of the regressions. The age of the case at settlement was associated with fee percentages in the first two regressions, and when the settlement class variable was removed in regressions 3 and 4, the age variable became positively associated with fee percentages in nonsecurities cases but remained insignificant in securities cases. Professors Eisenberg and Miller likewise found that the age of the case at settlement was positively associated with fee percentages in their 1993–2002 data set,[94] and that settlement classes were not associated with fee percentages in their 2003–2008 data set.[95]

Although the structure of these regressions did not permit extensive comparisons of fee awards across different litigation subject areas, fee percentages appeared to vary somewhat depending on the type of case that settled. Securities cases were used as the baseline litigation subject area in the second and fifth regressions, permitting a comparison of fee awards in each nonsecurities area with the awards in securities cases. These regressions show that awards in a few areas, including labor/employment and antitrust, were more lucrative than those in securities cases. In the fourth regression, which included only nonsecurities cases, labor and employment cases were used as the baseline litigation subject area, permitting comparison between fee percentages in that area and the other nonsecurities areas. This regression shows that fee percentages in several areas, including consumer and employee benefits cases, were lower than the percentages in labor and employment cases.

In the fifth regression (Column 5 of Table 12), I attempted to discern whether the circuits identified in Section III as those with the most overrepresented (the First, Second, Seventh, and Ninth) and underrepresented (the Fifth and Eighth) class action dockets awarded attorney fees differently than the other circuits. That is, perhaps district court judges in the First, Second, Seventh, and Ninth Circuits award greater percentages of class action settlements as fees than do the other circuits, whereas district court judges in the Fifth and Eighth Circuits award smaller percentages. To test this hypothesis, in the fifth regression, I included indicator variables only for the six circuits with unusual dockets to measure their fee awards against the other six circuits combined. The regression showed statistically significant association with fee percentages for only two of the six unusual circuits: the Second and Ninth Circuits. In both cases, however, the direction of the association (i.e., the Second and Ninth Circuits awarded *smaller* fees than the baseline circuits) was opposite the hypothesized direction.[96]

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[94]See Eisenberg & Miller, supra note 15, at 61.

[95]See Eisenberg & Miller II, supra note 16, at 266.

[96]This relationship persisted when the regressions were rerun among the securities and nonsecurities cases separately. I do not report these results, but, even though the First, Second, and Ninth Circuits were oversubscribed with securities class action settlements and the Fifth, Sixth, and Eighth were undersubscribed, there was no association between fee percentages and any of these unusual circuits except, again, the inverse association with the Second and Ninth Circuits. In nonsecurities cases, even though the Seventh and Ninth Circuits were oversubscribed and the Fifth and the Eighth undersubscribed, there was no association between fee percentages and any of these unusual circuits except again for the inverse association with the Ninth Circuit.

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The lack of the expected association with the unusual circuits might be explained by the fact that class action lawyers forum shop along dimensions other than their potential fee awards; they might, for example, put more emphasis on favorable class-certification law because there can be no fee award if the class is not certified. As noted above, it might also be the case that class action lawyers are unable to engage in forum shopping at all because defendants are able to transfer venue to the district in which they are headquartered or another district with a significant connection to the litigation.

It is unclear why the Second and Ninth Circuits were associated with lower fee awards despite their heavy class action dockets. Indeed, it should be noted that the Ninth Circuit was the baseline circuit in the second, third, and fourth regressions and, in all these regressions, district courts in the Ninth Circuit awarded smaller fees than courts in many of the other circuits. The lower fees in the Ninth Circuit may be attributable to the fact that it has adopted a presumption that the proper fee to be awarded in a class action settlement is 25 percent of the settlement.[97] This presumption may make it more difficult for district court judges to award larger fee percentages. The lower awards in the Second Circuit are more difficult to explain, but it should be noted that the difference between the Second Circuit and the baseline circuits went away when the fifth regression was rerun with only nonsecurities cases.[98] This suggests that the awards in the Second Circuit may be lower *only* in securities cases. In any event, it should be noted that the lower fee awards from the Second and Ninth Circuits contrast with the findings in the Eisenberg-Miller studies, which found no intercircuit differences in fee awards in common-fund cases in their data through 2008.[99]

V. Conclusion

This article has attempted to fill some of the gaps in our knowledge about class action litigation by reporting the results of an empirical study that attempted to collect all class action settlements approved by federal judges in 2006 and 2007. District court judges approved 688 class action settlements over this two-year period, involving more than $33 billion. Of this $33 billion, nearly $5 billion was awarded to class action lawyers, or about 15 percent of the total. District courts typically awarded fees using the highly discretionary percentage-of-the-settlement method, and fee awards varied over a wide range under this method, with a mean and median around 25 percent. Fee awards using this method were strongly and inversely associated with the size of the settlement. Fee percentages were positively associated with the age of the case at settlement. Fee percentages were not associated with whether the class action was certified as a settlement class or with the

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[97]See note 75 supra. It should be noted that none of the results from the previous regressions were affected when the Ninth Circuit settlements were excluded from the data.

[98]The Ninth Circuit's differences persisted.

[99]See Eisenberg & Miller II, supra note 16, at 260.

political affiliation of the judge who made the award. Finally, there appeared to be some variation in fee percentages depending on subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all of the other litigation areas, and district courts in the Ninth Circuit and in the Second Circuit (in securities cases) awarded lower fee percentages than district courts in several other circuits. The lower awards in the Ninth Circuit may be attributable to the fact that it is the only circuit that has adopted a presumptive fee percentage of 25 percent.

EXHIBIT C

Documents reviewed:

- Order on Motions to Dismiss Consolidated Amended Complaint—Class Action (document 197, filed 3/17/23)
- Order Denying AMEC's Motion to Dismiss Contingent Crossclaim of Newport Group, Inc. (document 331, filed 1/26/24)
- Order Granting in Part, Denying in Part Newport Group Inc.'s Motion to Dismiss African Methodist Episcopal Church's Amended Cross-Complaint (filed 344, filed 2/28/24)
- Defendant Newport Group, Inc.'s Partial Motion to Dismiss Plaintiffs' Second Consolidated Amended Complaint (document 521, filed 9/20/24)
- AMEC Defendants' Partial Motion to Dismiss Plaintiff's Second Consolidated Amended Complaint (document 522, filed 9/20/24)
- Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlements with AME Defendants and Defendant Newport Group, Inc. (document 750-1, filed 3/4/25)
- Class Action Settlement Agreement and Release ("AME Settlement") (document 750-2, filed 3/4/25)
- Class Action Settlement Agreement and Release ("Newport Agreement") (document 750-3, filed 3/4/25)
- Declaration of Matthew E. Lee in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlements with AME Defendants and Defendant Newport Group, Inc. (document 750-4, filed 3/4/25)

- Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlements with AME Defendants and Defendant Newport Group, Inc. (document 775, filed 3/24/25)